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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour & Employment)

NOTIFICATION

New Delhi, the 3rd August 1970

S.O. 2668.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Tribunal, Calcutta in the industrial disputes between the managements of certain newspaper establishments and their workmen which was received by the Central Government on the 22nd July, 1970.

NATIONAL TRIBUNAL AT CALCUTTA

PARTIES IN

REFERENCE NOS. NIT*- OF 1963. NIT-2 OF 1968 & NIT-1 OF 1969

1. *The Statesman Limited* publishing the Statesman (Delhi), the Statesman (Calcutta), the Statesman Weekly (Calcutta), and Junior Statesman (Calcutta)
2. *The Indian Express Newspapers (Bombay) Limited* publishing the Indian Express (Bombay), the Indian Express (Delhi), the Financial Express, the Lok Satta, the Screen (Bombay) and the Screen (Madras).
3. *The Indian National Press (Bombay) Private Limited* publishing the Free Press Journal, the Free Press Bulletin, the Janashakti, the Navashakti and Baharat Jyoti (Bombay)
4. *The Hindustan Times Limited, Delhi* publishing the Hindustan Times, the Hindustan Times Evening News, the Overseas Hindustan Times, the Week-end Review, the Hindustan (Hindi), the Saptahik Hindustan, the Kadambini and the Nandan

5. *The Ananda Bazar Patrika Private Limited, Calcutta* publishing the Hindustan Standard, the Ananda Bazar Patrika (Bengali daily), the Ananda Bazar Patrika (Bengali bi-weekly), the Hindustan Standard (Overseas edition) and Desh.
6. *Bennett Coleman & Company Limited* publishing the Evening News of India, the Navabharat Times (Delhi), the Navabharat Times (Bombay), the Illustrated Weekly of India, the Dharmayug, the Economic Times, the Maharashtra Times, the Dinaman, the Filmfare, the Famine, the Parag, the Sarika, the Madhuri, the Indrajal Comics (English) the Indrajal Comics (Hindi), the Indrajal Comics (Marathi), the Indrajal Comics (Gujarati), the Indrajal Comics (Tamil), the Indrajal Comics (Bengali), the Science Today and the Times of India Annual.

PRESENT

Mr. B.N. Banerjee Presiding Officer

APPEARANCES

For Employers:

- | | |
|---|---|
| 1. Ananda Bazar Patrika
and
Hindustan Standard, Calcutta. | { Mr. A. C. Mitter, Bar-at-Law
with
{ Mr. S. C. Sen, Advocate,
{ Mr. S. D. Banerjee, Bar-at-Law. |
| 2. The Statesman, Calcutta and
New Delhi. | { Mr. S.D. Banerjee, Bar-at-Law,
{ Mr. D.N. Das, Bar-at-Law instructed by.
{ Mr. J. K. Ghosh, Advocate of Orr, Dignam & Co.,
{ Solicitors |
| 3. Times of India, Bombay and
New Delhi. | { Mr. N. V. Phadke, Advocate instructed by
{ Mr. C. L. Shah of Chimanlal Shah and Co., Attorneys-
{ at-Law. |
| 4. The Indian Express, Bombay and
New Delhi. | { Mr. C.L. Shah of Chimanlal Shah and Co., Attorneys-
{ at-Law. |
| 5. Free Press Journal, Bombay | { Mr. C.L. Shah of Chimanlal Shah and Co., Attorneys-
{ at-Law. |
| 6. The Hindustan Times, New Delhi | { Mr. A. C. Mitter, Bar-at-Law,
{ Mr. B. N. Sen, Bar-at-Law, and
{ Dr. Anand Prakash, Advocate,
{ instructed by
{ Mr. R. N. Sinha, Establishment Officer, and
{ Mr. N. C. Shah, Advocate of Khaitan & Co., Solicitors. |

For Workmen:

- | | |
|--|---|
| 1. Ananda Bazar, Hindustan Standard
Desh Employees Union. | { Mr. S.K. Acharyya, Bar-at-Law
{ Mr. Manashnath Roy, Advocate
with
{ Mr. D. P. Sen, President of the Union. |
| 2. Statesman Employees' Union
Calcutta and New Delhi. | { Mr. Arun Prakash Chatterjee, Advocate
with
{ Mr. T.M. Nagarajan, General Secretary of Statesman
Employees' Union, New Delhi,
{ Mr. Jayanta, Das Gupta, Joint Secretary of Statesman
Employees Union, Calcutta. |
| 3. Statesman Clerical Staff Union | { Mr. D. L. Sen Gupta, Advocate,
{ Mr. S. N. Banerjee, Advocate
with
{ Mr. S. Banerjee, Hony. Secretary of the Union. |
| 4. Times of India and Allied Publi-
cations Employees' Union | { Mr. K. T. Sule, Advocate
with
{ Mr. Madan Phadnis, Advocate. |
| 5. Bennett Coleman & Co. Employees
Union, Delhi | { Mr. K. T. Sule, President
with
{ Mr. Madan Phadnis, Secretary. |
| 6. Workmen of Indian Express Bom-
bay and Free Press Journal—who
have given power to appear. | { Mr. K. T. Sule, Advocate
with
{ Mr. Madan Phadnis, Advocate. |
| 7. Indian Express Employees Union,
New Delhi. | { Mr. Arun Prakash Chatterjee, Advocate. |

8. Hindustan Times Employees Union { Mr. M.K. Ramamurthi, Senior Advocate.
 { Smt. Shyamla Papper, Advocate
 with
 Mr. K.L. Kapur, General Secretary of the Union.
 Industry : Newspaper.

AWARD

By Order No. 17/6/68-LRIII, dated September 17, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), made a reference of a number of industrial disputes between certain newspaper establishments and their workmen, to this Tribunal, for adjudication, in the following language:

"Whereas the Central Government is of the opinion that an industrial dispute exists between the employers and workmen in the newspaper establishments mentioned in the Annexure, in respect of the implementation of the recommendations of the Wage Board for non-journalist employees, as accepted by the Central Government by the Resolution No. WB-17(7)/67, dated the 18th November, 1967, in regard to the matters mentioned in the Schedule;

And whereas the said employers and their workmen agreed to settle the dispute amicably by negotiations on the basis that the employers would make an interim payment, in addition to the existing emoluments, of 70 per cent of the difference between the existing emoluments and the emoluments payable under the recommendations of the Wage Board for non-journalists aforesaid;

And Whereas such negotiations failed and the workmen have been on strike since the 23rd July, 1968;

And Whereas the employers have since agreed to pay in addition to the existing emoluments, 75 per cent of the difference between the existing emoluments and the emoluments payable under the Wage Board's recommendations, to the workmen covered by the recommendations of the Wage Board, from the date of resumption of work by the workmen and have further agreed to continue to pay the same up to the date when the award on this reference becomes enforceable;

And whereas the employers have further agreed that in fitting the pay of workmen in the pay scale determined by the award on this reference, the total emoluments payable to a workman in accordance with the agreement mentioned in the preceding paragraph (hereinafter referred to as the employers' agreement) immediately before the date on which the award on this reference becomes enforceable will be protected;

And whereas the Central Government is of the opinion that the dispute involves questions of national importance and is also of such a nature that newspaper establishments situated in more than one State are likely to be interested in or affected by such disputes;

And whereas the Central Government is of the opinion that the dispute should be adjudicated by a National Tribunal;

Now, therefore, in exercise of the powers conferred by Section 7B and sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes a National Tribunal at Calcutta of which Sri Justice B. N. Banerjee shall be the Presiding Officer and refers the said dispute to the said National Tribunal for adjudication.

SCHEDULE

- (1) Whether the recommendations of the Wage Board for non-journalist employees as accepted by Government by its Resolution No. WB-17(7)/67, dated the 18th November, 1967, are unfair or unreasonable and if so, what modifications are required therein to ensure a fair and just wage structure for the non-journalists, having due regard to the paying capacity of the respective newspaper establishments, the employers' agreement and the emoluments of employees engaged in comparable establishments;
- (2) Whether any categories of non-journalist employees in the newspaper establishments mentioned in the Annexure stand excluded from the recommendations of the Wage Board, and if so, which those

categories are and what the wage structure for such categories should be;

- (3) Whether according to the recommendations of the Wage Board for non-journalist employees as accepted by Government by its resolution No. WB-17(7)/67, dated the 18th November, 1967, the Free Press Journal, Bombay, is to be placed in Class III and if not, what its classification should be.

ANNEXURE

1. The Statesman—Calcutta and New Delhi.
2. The Indian Express—Bombay and New Delhi.
3. The Free Press Journal—Bombay.
4. The Hindustan Times—New Delhi.
5. The Hindustan Standard—Calcutta.
6. The Ananda Bazar Patrika—Calcutta."

2. Thereafter, by another order bearing the same number, dated October 7, 1968, the Government of India, in the same Ministry, referred the same industrial disputes between another newspaper and the workmen, to this tribunal for adjudication, in the following language:

"Whereas the Central Government is of the opinion that an industrial dispute exists between the employer and workmen in the Times of India, Bombay and Delhi, in respect of the implementation of the recommendations of the Wage Board for non-journalist employees, as accepted by the Central Government by its Resolution No. WB.17 (7)/67, dated the 18th November, 1967, in regard to the matters mentioned in the Schedule;

And whereas the said employer and his workmen agreed to settle the dispute amicably by negotiations on the basis that the employer would make an interim payment, in addition to the existing emoluments of 70 per cent of the difference between the existing emoluments and the emoluments payable under the recommendations of the Wage Board for non-journalists aforesaid;

And whereas such negotiations failed and the workmen went on strike on the 23rd July, 1968 but have since resumed work;

And whereas the employer has since agreed to pay, in addition to the existing emoluments, 75 per cent of the difference between the existing emoluments and the emoluments payable under the Wage Board's recommendations to the workmen covered by the recommendations of the Wage Board, from the date of resumption of work by the workmen and has further agreed to continue to pay the same up to the date when the award on this reference becomes enforceable;

And whereas the employer has further agreed that in fitting the pay of workmen in the pay scales determined by the award on this reference, the total emoluments payable to a workman in accordance with the agreement mentioned in the preceding paragraph (hereinafter referred to as the employer's agreement) immediately before the date on which the award on this reference becomes enforceable will be protected;

And whereas the employer, while alleging that the workmen in the Job Department and the Process Department are not covered by the recommendations of the Wage Board, has agreed to pay the workmen of the two departments, in respect of the period between 1st May 1968 and the date on which the award under this reference becomes enforceable, a sum of Rs. 20 each per month, in addition to their existing emoluments, for such periods for which they are entitled to be paid wages, subject to subsequent adjustment in accordance with the award on this reference;

And whereas the Central Government is of the opinion that the dispute involves questions of national importance and is also of such a nature that newspaper establishments situated in more than one State are likely to be interested in or affected by such dispute;

And whereas the Central Government is of the opinion that the dispute should be adjudicated by a National Tribunal;

Now, therefore, in exercise of the powers conferred by sub-section (1A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute to the National Tribunal at Calcutta constituted by the Central Government by their Order dated the 17th September, 1968 published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (ii), dated the 17th September, 1968, for adjudication.

SCHEDULE

- (1) Whether the recommendations of the Wage Board for non-journalist employees as accepted by Government by its Resolution No. WB.17 (7)/67, dated the 18th November, 1967, are unfair or unreasonable and if so, what modifications are required therein to ensure a fair and just wage structure for the non-journalists, having due regard to the paying capacity of the establishment the employer's agreement and the emoluments of employees engaged in comparable establishments?
- (2) Whether the workmen in the Job Department and the Process Department of the Times of India at Bombay and Delhi are not covered by the recommendations of the Wage Board? If they are not so covered, what should be the fair and just wage structure for these workmen, having regard to the paying capacity of the establishment and the emoluments of employees engaged in comparable establishments?"

It will appear, from a comparison of the schedules under the two orders of reference, that the second item of dispute as in the Schedule to the first order had not been at first included in the Schedule to the second order, 'as much as the second item of dispute in the second reference had not been included in the first reference. This occasioned an addition to the second reference, by the Central Government, by an order, dated December 5, 1968, to the following effect:

"Whereas an industrial dispute between the employers and the workmen in the Times of India Bombay and Delhi, was referred to the National Tribunal at Calcutta for adjudication, by the Order of Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 3524, dated the 7th October, 1968 (hereinafter in this Order referred to as the said Order);

And whereas the Central Government on considering the representations from the employers and the workmen is of opinion that the following matter should also be referred for adjudication to the aforesaid National Tribunal;

Now, therefore, in exercise of the powers conferred by sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following addition in the Schedule annexed to the said Order, namely:—

- (3) Whether any other categories of non-journalist employees in the Times of India stand excluded from the recommendations of the Wage Board, and if so, which those categories are and what the wage structure for such categories should be?"

No attempt was made to include the second dispute in the second reference, at any time in the first reference.

3. The first Order of reference dated September 17, 1968, was amended on February 12, 1969, by addition of the same industrial dispute concerning a Hindi newspaper known as "Hindustan", by an Order of the Central Government, bearing No. WB-17(1)/69, which is set out below:

"Whereas an industrial dispute between the employers and the workmen in respect of certain newspaper establishments was referred to the National Tribunal at Calcutta for adjudication, by the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), No. S.O. 3385, dated the 17th September, 1968 (hereinafter in this Order referred to as the said Order);

And whereas the Central Government on considering the representations from the employers and the workmen is of opinion that the Hindustan New Delhi should also be included in the said Order;

Now, therefore, in exercise of the powers conferred by sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendment in the said Order, namely;

In the Annexure to the said Order, after item 6, relating to the "Ananda Bazar Patrika—Calcutta", the following item shall be inserted, namely:

"7. The Hindustan—New Delhi."

So also, the Order, dated 7th October, 1968, was amended, by addition of the industrial dispute concerning a Hindi daily known as Nav Bharat Times, by an Order of the Central Government No. WB-17(1)/69, dated February 13, 1969, which is quoted below:

"Whereas an industrial dispute between the employers and the workmen in the Times of India, Bombay and Delhi was referred to the National Tribunal at Calcutta for adjudication, by the order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 3524, dated the 7th October, 1968 (hereinafter in this Order referred to as the said Order);

And whereas the Central Government on considering the representations, from the employers and the workmen is of opinion that the Nav Bharat Times, Bombay and Delhi should also be included in the said Order;

Now, therefore, in exercise of the powers conferred by sub-section (1A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendments in the said Order, as amended by the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 4387, dated the 5th December, 1968, namely:

In the said Order as so amended,—

(i) in paragraph 1, for the words "the Times of India, Bombay and Delhi", the following shall be substituted, namely:

- '(i) the Times of India, Bombay and Delhi, and
- (ii) the Nav Bharat Times, Bombay and Delhi.'

(ii) in the Schedule,—

- (a) in paragraph (2), after the words 'Bombay and Delhi', the words 'and the Nav Bharat Times, Bombay and Delhi' shall be inserted;
- (b) in paragraph (3), after the words 'the Times of India', the words 'and in the Nav Bharat Times' shall be inserted."

4. After the filing of pleadings by the parties in both the references as originally made and as later on amended or added, evidence was led on behalf of :

- (1) Ananda Bazar Patrika and Hindustan Standard.
- (2) The Statesman, Calcutta and New Delhi.
- (3) Indian Express, Delhi.
- (4) Hindustan Times, Delhi.

at Calcutta. The evidence on behalf of (1) Times of India, Bombay and Delhi, (2) Free Press Journal and (3) Indian Express, Bombay, was led by the parties at Bombay where the Tribunal went on Circuit.

5. May attempt to bring the hearing of the references to a speedy conclusion did not, however, succeed. After evidence had been recorded and after some of the Newspapers had concluded their arguments, the Central Government thought of amending the first reference, dated September 17, 1968, covering (1) The Statesman, Calcutta and New Delhi, (2) The Indian Express, Bombay and New Delhi, (3) Free Press Journal, Bombay, (4) Hindustan Times, New Delhi, (5) Hindustan Standard, Calcutta, (6) Ananda Bazar Patrika, Calcutta, in order to cover up "an advertant omission" and to "clarify the position". With that object in view the Central Government published an amending order, dated March 7, 1969, bearing No. WB-17(1)/69/1 couched in the following language:

"Whereas an industrial dispute between the employers and the workmen in respect of certain newspaper establishments was referred to the

National Tribunal at Calcutta for adjudication, by the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 3385, dated the 17th September, 1968 (hereinafter in this Order referred to as the said Order);

And whereas in the Annexure to the said Order there is an inadvertent omission to mention the newspaper establishments by which the newspapers mentioned there are published;

And whereas the Central Government is of the opinion that it is necessary to clarify the position in this behalf;

And whereas it is necessary for the complete adjudication of the said dispute that other newspapers published by the said newspaper establishments should also be included in the said Order;

Now, therefore, in exercise of the powers conferred by sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendment in the said Order, namely:

In the said Order, for the Annexure, the following Annexure shall be substituted, namely:—

ANNEXURE

1. The Statesman Limited publishing the Statesman (Delhi), the Statesman (Calcutta), the Statesman Weekly (Calcutta), and Junior Statesman (Calcutta).
2. The Indian Express Newspapers (Bombay) Limited publishing the Indian Express (Bombay), the Indian Express (Delhi), the Financial Express, the Lok Satta, the Screen (Bombay) and the Screen (Madras).
3. The Indian National Press (Bombay) Private Limited publishing the Free Press Journal, the Free Press Bulletin, the Janashakti, the Navashakti and Bharat Jyoti (Bombay).
4. The Hindustan Times Limited, Delhi publishing the Hindustan Times, the Hindustan Times Evening News, the Overseas Hindustan Times, the Week-end Review, the Hindustan (Hindi), the Saptahik Hindustan, the Kadambini and the Nandan.
5. The Ananda Bazar Patrika Private Limited, Calcutta publishing the Hindustan Standard, the Ananda Bazar Patrika (Bengali daily), the Ananda Bazar Patrika (Bengali bi-weekly), the Hindustan Standard (overseas edition) and Desh."

On the same date, the Government of India made a fresh reference to this Tribunal, bearing No. WB.17(1)/69/2, concerning the publications by the Bennett Coleman and Company Limited, which order is set out below:

"Whereas the Central Government is of the opinion that an industrial dispute exists between the employer in the newspaper establishment known as Bennett Coleman and Company Limited publishing the Times of India, Bombay and Delhi and other newspapers mentioned in the Annexure (hereinafter referred to as the establishment) and its workmen in respect of the implementation of the recommendations of the Wage Board for non-journalist employees, as accepted by the Central Government in its Resolution No. WB-17(7)/67, dated the 18th November, 1967 in regard to the matters referred to in the Schedule;

And whereas the said employer and his workmen agreed to settle the dispute amicably by negotiations on the basis that the employer would make an interim payment, in addition to the existing emoluments, of 70 per cent of the difference between the existing emoluments and the emoluments payable under the recommendations of the Wage Board for non-journalists aforesaid;

And whereas such negotiations failed and the workmen went on strike on the 23rd July, 1968, but later resumed work;

And whereas the employer has since agreed to pay, in addition to the existing emoluments, 75 per cent of the difference between the existing emoluments and the emoluments payable under the Wage Board's recommendations to the workmen covered by the recommendations of the Wage Board, from the date of resumption of work

by the workmen and has further agreed to continue to pay the same up to the date when the award on this reference becomes enforceable;

And whereas the employer has further agreed that in fitting the pay of workmen in the pay scales determined by the award on this reference, the total emoluments payable to a workman in accordance with the agreement mentioned in the preceding paragraph (hereinafter referred to as the employer's agreement) immediately before the date on which the award on this reference becomes enforceable will be protected;

And whereas the employer, while alleging that the workmen in the Job Department and the Process Department are not covered by the recommendations of the Wage Board, has agreed to pay the workmen of the two departments, in respect of the period between 1st May 1968 and the date on which the award under this reference become enforceable, a sum of Rs. 20 each per month, in addition to their existing emoluments, for such periods for which they are entitled to be paid wages, subject to subsequent adjustment in accordance with the award of this reference;

And whereas the Central Government is of the opinion that the dispute involves questions of national importance and is also of such a nature that newspaper establishments situated in more than one State are likely to be interested in or affected by such dispute;

And whereas the Central Government is of the opinion that the dispute should be adjudicated by a National Tribunal.

Now, therefore, in exercise of the powers conferred by sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute to the National Tribunal at Calcutta, constituted by the Central Government by their Order dated the 17th September, 1968, published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (II), dated the 17th September, 1968, for adjudication.

SCHEDULE

- (1) Whether the recommendations of the Wage Board for non-journalist employees as accepted by Government by its Resolution No. WB.17 (7)/67, dated the 18th November, 1967, are unfair or unreasonable and if so, what modifications are required therein to ensure a fair and just wage structure for the non-journalists, having due regard to the paying capacity of the establishment, the employer's agreement and the emoluments of the employees engaged in comparable establishments?
- (2) Whether the workmen in the Job Department and the Process Department of the establishment at Bombay and Delhi are not covered by the recommendations of the Wage Board? If they are not so covered, what should be the fair and just wage structure for these workmen, having regard to the paying capacity of the establishment and the emoluments of employees engaged in comparable establishments.
- (3) Whether any other categories of non-journalist employees in the establishment stand excluded from the recommendations of the Wage Board, and if so, which those categories are and what the wage structure for such categories should be?

ANNEXURE

The Evening News of India, the Navabharat Times (Delhi), the Navabharat Times (Bombay), the Illustrate Weekly of India, the Dharmavug, the Economic Times, the Maharashtra Times, The Dinaman, the Filmfare, the Femina, the Parag, the Sarika, the Madhuri, the Indrajai Comics (English), the Indrajai Comics (Hindi), the Indrajai Comics (Marathi), the Indrajai Comics (Gujarati), the Indrajai Comics (Tamil), the Indrajai Comics (Bengali), the Science Today and the Times of India Annual."

It is to be noted that the fresh reference covered the newspapers Times of India (Bombay and Delhi), Navabharat Times (Delhi) and Navabharat Times (Bombay) which had already been referred to this Tribunal.

6. Since the points of dispute as referred to this Tribunal by the first and the second orders of reference were identical, I had decided to pass one award in respect of all the Newspapers covered by the two orders (as amended). When the last reference regarding Bennett Coleman publications was made, I stuck to my original decision.

Frequent amendments and additions to the original references have retarded the progress of hearing before this Tribunal. I record this as a fact, not meaning however, to criticise the propriety of such repeated amendments and additions. I do so, because I was called upon repeatedly to explain the delay in passing the award by the Ministry concerned, which caused the delay by repeated amendments.

I have given further hearings to the parties, affected by the two orders, dated March 7, 1969, at Calcutta. I place this fact also on record.

II

7. Before I take up for consideration the individual papers concerned in the references, I propose to consider the circumstances under which the Wage Board for non-journalists was set up and relate the various matters considered by the Board in its report. There was at first a Wage Board for Working Journalists set up by the Government of India, by a Notification dated November 12, 1963. Thereafter, Resolution No. WB-17(2)/63 dated February 25, 1964, the Government of India provided:

"A Wage Board for the Working Journalists has been set up by the Government of India by their notification, S.O. 3202, dated the 12th November, 1963. It has been decided to set up a separate Wage Board for fixing the rates of Wages of the non-journalist employees of the newspaper establishments i.e. those who are not covered by the definition of the term 'working Journalist' in Section 2(f) of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (No. 45 of 1955). While making its recommendations, the Wage Board for non-Journalists shall have regard to the cost of living, the prevalent rates of wages for comparable employments, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances which to the Board may seem relevant.

Board shall also consider the demand for grant of gratuity to non-Journalist employees of the newspaper establishments."

The composition of the Board will be as follows:—

- | | |
|--|--------------------------------|
| 1. Shri G. K. Shinde | Chairman |
| 2. Shri Sidheshwar Prasad, M.P. | Independent Member |
| 3. Shri P. Brahmayya | Independent Member |
| 4. Shri Narendra Tiwari | Member representing employers |
| 5. Shri P.K. Roy | Member representing employers. |
| 6. Shri Amarnath Vidyalkar, M.P. | Member representing employer. |
| 7. Shri S.Y. Kolhatkar | Member representing employees. |

The membership of the Board, however, did not remain constant. Mr P. K. Roy, representative of the employers, resigned his membership on May 29, 1964 and Sri Upendra Acharya was appointed in his place, by a Government resolution dated July 8, 1964. The whereabouts of Shri S. Y. Kolhatkar being not known, the All India Newspaper Employees Federation suggested the name of Mr. H. L. Parvana to replace Mr. S. Y. Kolhatkar and the Government accepted the suggestion by Resolution dated May 26, 1965. Mr. Parvana, in his turn resigned on January 6, 1966 on account of ill health and the Government appointed Mr. T. M. Nagarajan in his place, by resolution dated January 7, 1966. Lastly, Mr. Upendra Acharya, representative of the employers, resigned his membership, on January 4, 1967, and the Government employed Mr. K. M. Mathew in his place, by resolution dated February 7, 1967.

8. The Wage Board framed certain questionnaire and invited replies thereto from all interested parties. The total number of replies received was 69 out of which 46 replies were received from employers, 18 replies from employees' Union, one from Government institution and 6 from individual and other interested parties.

9. Before the Wage Board several unions of Newspaper employees demanded interim relief. Doubts having arisen as to whether the Wage Board had any

jurisdiction to grant interim relief, the Government of India, by resolution dated October 7, 1964, amended the Government resolution dated February 25, 1964 (already quoted) to the following effect:

"The Board shall also consider the demands for grant of (i) interim relief to the non-journalist employees of newspaper establishments pending the submission of its final report; and (ii) gratuity for such employee."

After calling for necessary information, the Wage Board passed the following resolution regarding interim relief on December 12, 1964:—

"On the question of interim relief the Board unanimously resolved that:—

- (1) The interim relief on the following basis should be granted to non-Journalist employees of newspaper establishments:—
 - (i) for 'A' and 'B' Class Newspaper a flat relief of Rs 15 per month;
 - (ii) for 'C' Class Newspapers a flat relief of Rs. 10 per month;
 - (iii) for 'D' Class Newspapers a flat relief of Rs. 7.50 per month.
 - (iv) for 'E' and 'F' Class Newspapers a flat relief of Rs. 5 per month.
- (2) This interim relief should be payable to non-Journalist Employees w.e.f. 1st May, 1964.
- (3) The above recommendations are subject to the condition that in no newspaper establishment a non-Journalist Employee after taking into account the interim relief recommended above should get less than Rs 50 per month.
- (4) This interim relief shall be payable to non-Journalist Employees drawing a salary upto Rs 750 per month with marginal adjustments.
- (5) If there be any agreement in force on the 1st May, 1964 between the Newspaper Establishments and their employees stipulating grant of interim relief subject to adjustments after the recommendations of Wage Board are brought into force, those agreements shall stand. If the interim relief already granted is less than recommended above, the non-Journalist Employees concerned shall get the difference of the two and if it is more than that recommended above then they shall continue to get the interim relief already granted to them."

The recommendations regarding interim relief were accepted by the Government, by a resolution dated April 9, 1965. The Wage Board held 25 meeting to transact business. The total number of witnesses examined was 106. Out of them 76 witnesses were representatives of the employers, two were the representatives of employers' Association, 27 were representatives of the employees' unions and one was an individual.

10. The report produced by the Wage Board contains several chapters, Chapter II contains general principles governing the wage structure. The principles are generally collected from different judgments passed by the Supreme Court of India. Chapter III contains the grounds underlying the recommendations and deals with gross revenue of newspapers, multiple units, groups and chains of newspapers, classification of newspapers and news agencies, grouping of non-Journalists, wage scales, linking of dearness allowance to costs of living index number, provision for gratuity and age of retirement. The chapter makes seven classification of newspaper industry as indicated below:

Class	Gross Revenue
I	Rs. 200 lakhs and above.
II	Rs. 100 lakhs and above and less than Rs. 200 lakhs
III	Rs. 50 lakhs and above and less than Rs. 100 lakhs
IV	Rs. 30 lakhs and above and less than Rs. 50 lakhs
V	Rs. 15 lakhs and above and less than Rs. 30 lakhs
VI	Rs. 5 lakhs and above and less than Rs. 15 lakhs
VII	Rs. Less than Rs. 5 lakhs."

The classification was done as stated in paragraph 3.6, because, in the absence of regional characteristics, there existed a strong case to divide the industry into classes for the sake of judging the capacity to pay. In class I, the newspaper establishment of Bannett Coleman & Co. Ltd. is there. The other newspaper establishment in class I is The Statesman Ltd. of Calcutta. The establishments in class II are two in number namely the publication by Kasturi and Sons, Madras and

Hindustan Times, New Delhi. In class III, there are 5 newspaper establishment including Indian Express and Ananda Bazar Patrika. In class IV there are 10 newspaper establishments. In class V there are three newspaper establishments included; in class VI five newspaper establishments; and in class VII two newspaper establishments. In paragraphs 3.19 to 3.25 of the report of the Wage Board, the following observations are contained:

- “3.19. From the analysis given above it is evident that both Bennett Coleman and Co. and Statesman are in a position to bear the burden likely to be imposed by the proposed wage scales
- 3.20. Similarly establishments belonging to class II viz., Kasturi and Sons, Madras and Hindustan Times, New Delhi are also in a position to bear the burden.
- 3.21. Establishments belonging to class III except Indian Express do not appear to be in a position to bear the burden. From the evidence which has come to the notice of the Board it appears that the management of all these papers which are not in a position to bear the additional burden imposed by the new wage scales is far from satisfactory. Tightening up the organisation can enable these papers to pay the higher wages without difficulty. That there is room for tightening up the organisation is evident from the evidence recorded by the Board.
- 3.22. As far as class IV establishments are concerned with the exception of Mathrubhoomi and Malayala Manorama all the other establishments are in a position to bear the burden.
- 3.23. As far as class V establishments are concerned daily Pratap is in a position to bear the burden. Allahabad Patrika is a sister concern of Amrit Bazar Patrika. As far as other establishments are concerned from the evidence given before the Board it appears that there is room for tightening up the organisation. If that is done all these establishments will be in a position to bear the burden.
- 3.24. With regard to class VI information could be had only with regard to three establishments, namely Vir Arjun, Shri Krishna Sandesh and Nai-Dunia. Nai Dunia is in a position to bear the burden. Shrikrishna Sandesh Pvt. Ltd. and Vir Arjun are border line cases.
- 3.25. In respect of class VII papers, information could be had in respect of only two establishments Rashtra Dharma Prakashan Ltd. and Siasat. Siasat is in a position to bear the burden while Rashtra Dharma Prakashan Ltd. is not in a position to bear the burden.”

11. Chapter IV contains the recommendations of the Wage Board for non-Journalists employees of the newspaper establishments. Paragraphs 4.1 in the chapter is the definition paragraph. The following definitions are worthy of notice:

Non-Journalist employee means all full-time employees including out-station staff of a newspaper establishment excluding Working Journalists and those who are employed mainly in a managerial or administrative capacity.

Newspaper Establishment means an establishment including a printing press, under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate.

Gross Revenue.—(a) In the case of a newspaper means the entire revenue earned by the establishment from one centre. Revenue in respect of circulation and advertisement shall be taken to be the amount arrived at after deducting the commission actually allowed to the extent to which the amount of commission allowed by the income-tax authorities. In the case of a group the entire revenue of a unit is to be calculated as follows:

The circulation and advertisement revenue of each unit be separated. The remaining revenue is to be apportioned to each unit in proportion to its circulation and advertisement revenue:

Provided that in a newspaper establishment in regard to the activity of other departments which have nothing to do with the income and expenditure of the newspaper, including the depreciation on the machinery employed by the newspaper establishment, the net income of those of other departments is to be excluded from the income of the newspaper.

Group means two or more newspapers published by a newspaper establishment from the same centre.

Multiple Unit means the same newspaper published from more than one centre by a newspaper establishment.

Chain means more than one newspaper published by a newspaper establishment from more than one centre.

Paragraph 4.11 provides:

"4.11. *Groups Multiple Units and Chains*.—In the case of multiple unit, all constituent units should be placed in the highest of the classes in which they are taken separately, would fall, under the foregoing provisions provided that no such unit should as a result of the provisions of this paragraph be placed more than two classes above the class in which it would fall on the basis of its own revenues in accordance with the provisions of paragraph 9."

Paragraph 4.23 contains the groupings of non-journalists in the following language:

"4.23. *Grouping of Non-Journalists*—

I. Administrative staff.—(a) In daily newspapers Class I, Class II and Class III and weeklies and periodicals Class I.

Group I.—General Manager, Manager and Secretary.

Group II.—Departmental Managers (those who are Incharge of Circulation, Advertisement Departments, Personnel etc), Chief Accountant (Accountant), P.R.Os (Class I and II daily news papers).

Group III.—Liaison Officers, Accounts Officers, Chief Internal Auditor, Assistant Advertisement Managers and Assistant Circulation Managers, Personnel Officers.

Group IV.—Sectional Heads (supervising work of 5 clerks) Business Canvassers, Sales Representatives, Head Clerks, Personal Assistants (Steno-Secretaries), Assistant Accountant, Advertisement Representative.

Group V.—Stenographers, Assistants, Ledger Clerks, Cashiers, Clerks working on Balance sheets or costing, Watch and Ward Inspectors, Assistant Cashiers, Circulation Inspectors, Advertisement Translators, Clerks doing independent correspondence, scheduling work for advertisements or making advertisement dummy, Comptists Clerks doing work relating to tax matters like Sales Tax, Income Tax, Excise Duty, Persons dealing with the preparation of abstracts under the Payment of Wages Act, Minimum Wages Act, calculating E.S.I. and Provident Fund those working on Accounting Machines, Teleprinter Operators, Field Organisers and those doing ABC.

Group VI.—Factory Clerks, Works Clerks, Record-keepers, Clerks doing simple copying work, Filing work, those preparing bills, Challans for bills, circulation receipts, Time-Keepers (Time Office Adv. Box sorters Typists, Telephone Operators, Addressographers, Receptionists, Railway Despatch Clerks, Parcel Clerks, Despatchers, Franking Machine Operators, Sanitary Inspectors, Persons dealing with the acceptance of advertisements, sale of publications

Group VII.—Bills Collectors, Daftry or those doing semi-clerical work.

Group VIII.—Peon, Sweeper, Chowkidar, Bearer, Cleaner, Callboy, Canteen-boy, Waterboy and Mail.

(b) In daily newspapers Class IV, Class V, Class VI and Class VII.

Group I.—General Manager, Manager and Secretary

Group II.—Departmental Managers (those who are Incharge of Circulation Advertisement Departments Personnel etc.), Chief Accountant (Accountant), P.R.Os (Class I and II papers), Chief Internal Auditor.

Group III.—Sectional Heads (Supervising works of 5 clerks), Business Canvas-sers, Sales Representatives, Head Clerks, Personnel Assistants (Steno-Secretaries).

Group IV.—Stenographers, Assistants, Ledger clerks, Clerks working on Balancesheets or costing, Cashiers, Watch and Ward Inspectors, Assistant Cashiers, Circulation Inspectors, Advertisement Translators, Clerks doing independent correspondence, Scheduling work for advertisements or making advertisement dummy, Comptists, Clerks doing work relating to Tax matters like Sales Tax, Income Tax, Excise Duty, Persons dealing

with the preparation of abstracts under the Payment of Wages Act, Minimum Wages Act, Calculating E.S.I. and Provident Fund, those working on Accounting Machines, Teleprinter Operators, Field Organisers and those doing ABC.

Group V.—Factory Clerks, Works Clerks, Record-keepers, Clerks doing simple copying work, Filing work, those preparing bills, Challans for bills, Circulation Receipts, Time-Keepers (Time Office, Advertisement Box Stores), Typists, Telephone Operators, Addressographers, Receptionists, Railway Despatch Clerks, Parcel Clerks, Despatchers, Franking Machine Operators, Sanitary Inspectors, Persons dealing with the acceptance of advertisements, sale of publications.

Group VI.—Bill Collectors, Daftry or those doing semi-clerical work.

Group VII.—Peons, Sweeper, Chowkidar, Bearer, Cleaner, Callboy, Canteenboy, Waterboy and Mali.

(c) In Weeklies and Periodical (Other than Class I).

Group I.—General Manager, Manager and Secretary.

Group II.—Departmental Managers (those who are in charge of Circulation, Advertisement Departments Personnel etc.), Chief Accountant (Accountant), P.R.Os. (Class I and II papers), Chief Internal Auditor.

Group III.—Sectional Heads (supervising work of 5 clerks) Business Canvasers, Sales Representatives, Head Clerks, Personal Assistants (Steno-Secretaries).

Group IV.—Stenographers, Assistants, Ledger Clerks, Clerks working on Balancesheets or costing, Cashiers, Watch and Ward Inspectors, Assistant Cashier, Circulation Inspectors, Advertisement Translators, Clerks doing independent correspondence, Scheduling work for advertisements or making advertisement dummy, Comptists, Clerks doing work relating to Tax matters like Sales Tax, Income Tax, Excise duty, Persons dealing with the preparation of abstracts under the Payment of Wages Act, Minimum Wages Act, calculating ESI and Provident Fund, those working on Accounting Machines, Teleprinter Operators, Field Organisers and those doing ABC.

Group V.—Factory Clerks, Works Clerks, Record-keepers, Clerks doing simple copying work, filing work those preparing bills, Challans for bills, Circulation Receipts, Timekeepers (Time Office, Advertisement Box sorters), Typists, Telephone Operators, Addressographers, Receptionists, Railway Despatch Clerks, Parcel Clerks, Despatchers, Franking Machine Operators, Sanitary Inspectors, Persons dealing with the acceptance of advertisements, sale of publications.

Group VI.—Bill collectors, Daftry or those doing semi-clerical work

Group VII.—Peon, Sweeper, Chowkidar, Bearer, Cleaner, Callboy, Canteen Boy, Water Boy and Mali.

II. Factory Staff.—(d) Factory Workers of Daily newspapers.—

Group I.—Lino-Mechanics, Mono-Mechanics, Motor Mechanics, Rotary Mechanics, Armature Winder, Lino Operator, Mono Operator, Colour-etcher, Printer (Foreman, Composing Supervisor), Rotary Machine Shift In-charge (Minder).

Group II.—Sarang Stereo Caster, Corrector, Make-up Man, Hand Compositor (Class I, II, III & IV), Imposer, Driver (for class I, II, III & IV), Ludlow Operator, APL Operator, Half-tone Etcher, Camera Operator, Rotary Machineman (General).

Group III.—Caster, Monocaster, Electrician, Cutter, Carpenter, Copy-holder, Dark Room Assistant, Mistry, Fitter, Machineman (Except Rotary Machineman), Roller Maker, Moulder, Mangleman, Mason, Plate Maker (Black & White), Stereoman, Turner, Wireman, Welder, Hand Compositor (For Classes V, VI & VII), Driver (For classes V, VI and VII).

Group IV.—Treadleman, Line-etcher, Blacksmith, Cook, Distributor.

Group V.—Semi-skilled Baller, Binder, Flyboy, Knife-Sharpener, Mounter, Plate-Grinder, Rollerman, Router, Reel Winder, Stitcher, Colour Work Examiner, Barman, Counter, Daftry, Dhobi, Galley Pressman, Inkman, Puller, Feeder, Liftman, Lockup Man, Lead Melter, Numberer Proof Puller, Feeder, Paperman, Head Peon, Havildar, Jamadar.

Group VI.—Mazdoor, Reel Loader & Unloader, Trolleyman, Baller.

(e) Factory Workers of Weeklies and Periodicals—

Group I.—Lino-Mechanics, Mono-Mechanics, Motor Mechanics, Rotary Mechanics, Armature Winder, Lino Operator, Mono Operator, Colour Etcher, Printer (Foreman, Composing Supervisor), Rotary Machine Shift In-charge (Minder).

Group II.—Sarang, Stereo Caster, Corrector, Makeup Man, Head Compositor (for Classes I & II), Imposer, Driver (for classes I & II), Ludlow Operator, APL Operator, Half-tone Etcher, Camera Operator, Rotary Machineman (General)

Group III.—Caster, Monocaster, Electrician, Cutter, Carpenter, Copy Holder, Dark Room Assistant, Mistry, Fitter, Machineman (Except Rotary Machineman), Roller Maker, Moulder, Mangleman, Mason, Platemaker (Black and White), Stereoman, Turner, Wireman, Welder, Hand Compositor (for classes III IV, V and VI), Driver (for classes III, IV, V and VI).

Group IV.—Treadleman, Line-etcher, Blacksmith, Cook, Distributor.

Group V.—Semi-skilled Baller, Binder, Fly-boy, Knife sharpener, Mounter, Plate-grinder, Roderman, Router, Reel Winder, Stitcher, Colour work examiner, Barman, Counter, Daffry, Dhobi, Galley Pressman, Inkman, Interlay Cutter, Liftman, Lockup Man, Lead Melter, Numberer, Proof Puller, Feeder, Paperman, Head Reon, Havildar, Jamadar.

Group VI.—Mazdoor Reel-loader and Unloader, Trolley-man, Baller."

I need not set out at this stage, the paragraphs containing provisions for remuneration, wage scales and grade. They have recommended substantial increase on the present scales. I shall only deal such provisions of it as may be necessary in the appropriate context. The provisions for dearness allowance are contained in paragraph 4.25 and 4.26 which is set out below:

"4.25. Dearness allowance.—Dearness allowance should be paid to non-Journalists at the following rates—

Range of Basic pay	Area		
	III Rs.	II Rs.	I Rs.
Below Rs. 100	30	40	50
Rs. 100 to Rs. 200	40	55	70
Above Rs. 200 and upto Rs. 300	50	65	80
Above Rs. 300 and upto Rs. 400	60	75	90
Above Rs. 400 and upto Rs. 500	70	85	100
Above Rs. 500 and upto Rs. 800	85	100	110
Above Rs. 800 and upto Rs. 1200	100	115	130
Above Rs. 1,200	120	140	150

4.26. The proposed scales of pay and dearness allowances is to be linked up with the average consumer price index number for the year 1965 of the All India Average Consumer Price Index numbers for working class (with 1949 equal to 100) as base, i.e. 166. The dearness allowance should be revised every year either upwards or downwards on the basis of the average of the previous 12 months. The first revision is to take place in January 1968 as soon as average consumer price index number for the year 1967 is available. If the average of the year 1967 differs from the average of the year 1965 by 10 points or more upwards or downwards the dearness allowance is to be revised at the rate of 50 paise per point upwards or downwards as the case may be. After 1968 revision is to be made every year in January on the basis of the average of the previous year as soon as the figures are available, provided the average of the 12 months differs by 10 points or more from the average of the year immediately preceding the previous year. The rate of revision is to be 50 paise per point."

Provisions for other allowances are to be found in paragraph 4.27 which I quote below:—

"4.27. Other allowances—The Board recommends that the fixation of conveyance, entertainment, travelling, night shift etc., should be left to collective bargaining between the non-Journalists and the newspaper establishments concerned."

Paragraph 4.28 deals with the gratuity in the following language:—

"4.28. The gratuity scheme as applicable to working Journalists as per the provisions contained in the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 subject to the decisions of the Supreme Court shall be applicable to all the non-Journalist employees. If there be any gratuity scheme applicable to any non-Journalists immediately before coming of these recommendations into force in that case at his option he can continue to be governed by that scheme instead of the one recommended above."

Provisions for fitment are to be found in paragraph 4.29 as quoted below:—

"4.29. Fitment—(1) for the purpose of fitment—

- (i) Relevant dates means—In the case of Classes I, II & III of newspapers and News Agencies and Class I periodicals—1st January 1967. (Changed to 1st July 1967 by the Government of India). In the case of all others 1st July, 1967.
- (ii) The present emolument of a non-Journalist shall mean his basic pay plus the D.A. and the amount of interim relief payable to him immediately before the relevant date.
- (iii) The revised scale shall mean the scale of pay applicable as per para 24 of these recommendations.
- (iv) The assumed basic pay for a non-Journalist shall mean the amount arrived at after reducing the present emolument by the amount of D.A. for the minimum of revised scale applicable in his case as per para 25 and 24 respectively.
- (2) If the assumed basic pay of a non-Journalist is less than the revised scale, his initial pay will be brought to the level of the minimum of the revised scale.
- (3) In case the assumed basic pay is higher than the minimum of the revised scale and equal to any stage in the revised scale it will be fixed at that stage.
- (4) In case the assumed basic pay is higher than the minimum of the revised scale but not at level with any stage in the revised scale than it will be brought upward to the level of the nearest stage of the scale.
- (5) After the initial fixation of basic pay of a non-Journalist as set forth in paragraphs 2, 3, 4 above each non-Journalist shall be given one increment on the basis of each five years completed service in the group he was immediately before coming into operation of these recommendations.

Provided that in no case more than three increments (changed to two increments by the Government of India) shall be given; and provided further that by fixation of his pay in the manner suggested above no one will get more than the maximum of the revised scale.

- (6) After initial fixation of the basic pay of a non-Journalist as set forth in the foregoing sub-paragraphs the D.A. as per para 23 shall be payable from the relevant dates on the basic wage so arrived.
- (7) A non-Journalist at his option can retain the present scale. This option he has to exercise within a period of two months from the date of publication of Government decision on this recommendation, Option once exercised shall be final.
- (8) When a non-Journalist is fitted into a scale in accordance with the provisions of sub-paragraphs 1 to 7 as on the relevant date, he should be entitled to count increments in the appropriate scales as from that date.
- (9) In no case, should the total of the existing basic pay and dearness allowance, if any, be reduced as a result of the operation of the provisions contained in these recommendations.
- (10) When a newspaper establishment is reclassified in accordance with paragraph 21, the employee should be fitted into the new scale, applicable to him as his existing basic pay. When the basic pay does not coincide with a stage in the new scale, the employee should be fitted at the next higher stage when the classification goes up and be fitted next lower stage when the classification goes down. In the latter case, the higher existing basic pay should be protected and the difference

between the existing basic pay and the pay to which he is so fitted may be absorbed in a future increment."

Para 4.31 of the Report contained provisions for age of retirement, with this, however, I need not concern myself because that recommendations were not accepted by the Central Government. Para dealt with re-employment. The date of operation of the recommendations was stated in Paragraph 4.35 in the following language:—

"4.35. Date of Operation—These recommendations should be operative in respect of each newspaper, news-agency and periodical as from the relevant date applicable to it in accordance with paragraph 29 sub-para (1)."

12. Chapter V deals with miscellaneous provisions and I need not concern myself with them.

13. The main report was signed by the Chairman, Mr. G. K. Shinde and Mr. Sidheshwar Prasad, Member. The other members, namely Messrs P. Brahamayya, K. M. Mathew, Narendra Tiwari, Amarnath Vidyalankar and T. M. Nagarajan all signed the report subject to their respective minute of dissent.

III

14. The report of the Wage Board was received by the Central Government on July 17, 1967. The Government, however, was not prepared to accept the recommendations by the Wage Board as a whole and this was all the more so because of several notes of dissent. The Government, therefore, made certain changes in the recommendations of the Board. Paragraph 4.23 of the report of the Wage Board, dealing with grouping of non-Journalists (hereinbefore set out) was changed to following effect:—

"(i) Para 4.23—Grouping of non-Journalists:—

(I) Administrative Staff:—

(a) Daily newspapers Class I, II & III. Groups V & VI shall be substituted as under:—

Group V

Stenographers, Assistants, Accounts Clerk, Watch and Ward Inspectors, Cashiers, Circulation Inspectors, Advertisement Translators, Senior Clerks (i.e. those whose work involves special skills), Operators of Accounting Machines/Calculating Machines and Teleprinters, Field-Organisers and those doing Audit Bureau of Circulation.

Group VI

Junior Clerks (i.e. those doing normal clerical work including acceptance of advertisements and sale of publications), Time-Keepers, Typists, Telephone Operators, Addressographers, Receptionists, Franking Machine Operators and Sanitary Inspectors.

(b) In daily newspapers Class IV, V, VI & VII; and

(c) Weeklies & Periodicals.—Group IV and V shall be substituted as follows:—

Group IV

Stenographers, Assistants, Accounts Clerks, Watch & Ward Inspectors, Cashiers, Circulation Inspectors, Advertisement Translators, Senior Clerks (i.e. those whose work involves special skills), Operators of Accounting Machines/Calculating Machines and Teleprinters, Field Organisers and those doing Audit Bureau of Circulation.

Group V

Junior Clerks (i.e. those doing normal clerical work including acceptance of advertisements and sale of publications), Time-Keepers, Typists, Telephone Operators, Addressographers, Receptionists, Franking Machine Operators and Sanitary Inspectors.

(II) Factory Staff:—

(d) Factory workers of daily newspapers, and

(e) Factory workers of weeklies and periodicals—Hand Compositors and Drivers shall be placed in Group III irrespective of the class of Newspapers/weeklies/periodicals in which they are employed."

Paragraph 4.29 of the recommendations of the Wage Board dealing with fitment (already set out) was changed to the following effect:—

(ii) Para 4.29—Fitment:—

Sub-Para 1(i)—The existing date 1st January 1967 shall be amended to read 1st July, 1967.

Sub-Para (5)—In the proviso, the words 'three increments' shall be substituted by the words 'two increments'."

Paragraph 4.31 containing recommendations about age of retirement and Para 4.32 containing provisions for pay on re-employment were both omitted because they did not constitute parts of the terms of reference to the Wage Board. By the Order of amendment the Government of India conveyed a request to newspaper establishments to implement the amended recommendations expeditiously.

IV

15. The recommendations of the Wage Board were not implemented by some of the newspaper establishments. The result was that between the employers and the employees of the several newspapers concerned there arose several industrial disputes and even the publication of those newspapers stopped for sometime. The Government suggested to the employers certain formula under which the situation could be normalised to an extent, the publication of the newspapers resumed and the industrial dispute was referred to a Tribunal. The formula suggested by the Government was:—

(i) Employers should agree to pay in addition to the present emoluments 75 per cent of the difference between the present emoluments of the emoluments to which an employee would be entitled under the Wage Board recommendations, and

(ii) That an employee should be assured of the quantum of emoluments as determined above even after the adjudication award.

The above suggestion was accepted by the different employers of newspaper establishments which are parties to this adjudication (*vide* Exts. 29, 29(a), 76, 76(a), 81, 81(a), 110, 111, 8, 8(a), 82 and 82(a)).

V

16. From an analysis of the recommendations of the Wage Board, as hereinbefore given, it will appear that the recommendations conferred benefits upon the workmen regarding, (i) Wages and (ii) Dearness allowance. Consequential thereto, the recommendations also covered the topic of fitment of workmen into the benefits. The claim by the non-journalist workmen for gratuity was shelved with the following observations:—

"4.28. Gratuity scheme as applicable to working journalists as per the provisions contained in the Working Journalists (Condition of Service) and miscellaneous Provisions Act, 1955 subject to the decisions of the Supreme Court shall be applicable to all non-journalists employees. If there be any gratuity scheme applicable to any non-journalist immediately before coming of these recommendations into force in that case at his option he can continue to be governed by that scheme instead of one recommended above."

The propriety of the recommendations contained in paragraph 4.28 of the Report was not disputed before me.

17. Before I take up the cases of newspapers separately, I need remind myself about the law governing wages and wage scales and dearness allowance and also the principles of fitment thereto as laid down in different judgment of Supreme Court. I may have to return to the subject over and over again, while dealing with the arguments advanced by different learned Counsel. But, even then it is convenient for me to start with the guide lines from this stage, so as not to be led astray.

18. In the case of *Express Newspaper (Private) Limited vs the Union of India* (1961) 1 LLJ 339, the Supreme Court considered the concept of (i) Living Wage, (ii) Fair Wage and (iii) Minimum Wage, as well as the machinery for fixation of wages with great elaboration. Explaining the nature of the three classes of wages, Das Gupta J. of the Supreme Court observed in *Hindustan Times Limited, New Delhi vs their workmen* (1963) 1 LLJ 108:—

"In trying to keep true to the two points of social philosophy and economic necessities which vie for consideration, industrial adjudication has set for itself certain standards in the matter of wages-fixation. At the

bottom of the ladder, there is the minimum basic wage which the employer of any industrial labour must pay in order to be allowed to continue an industry. Above this is the fair wage—which may roughly be said to approximate to the need-based minimum, in the sense of a wage which is adequate to cover the normal needs of the average employees regarded as a human being in a civilized society. Above the fair wages is the 'living wage'—a wage 'which will maintain the workmen in the highest state of industrial efficiency, which will enable him to provide his family with all the material things which are needed for their health and physical well-being, enough to enable him to qualify to discharge his duties as a citizen.'

So far as Fair Wage is concerned, the Supreme Court observed in the case of Express Newspaper (Supra):

"While the lower limit of the fair wage must obviously be the minimum wage, the upper limit is equally set by what may broadly be called the capacity of industry to pay. This will depend not only on the present economic position of the industry but in its future prospects. Between these two limits the actual wages will depend on a consideration of the following facts and in the light of the comments given below:—

- (i) the productivity of labour;
- (ii) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities;
- (iii) the level of the national income and its distribution; and
- (iv) the place of the industry in the economy of the country." (Report of the Committee on Fair Wages, pp 4, 9--11, Paras 11--15).

It will be noticed that the "fair wage" is thus a mean between the living wage and the minimum wage and even the minimum wage contemplated above is something more than the bare minimum or subsistence wage which would be sufficient to cover the bare physical needs of the worker and his family, a wage which would provide also for the preservation of the efficiency of the worker and for some measure of education, medical requirements and amenities."

19. On the question as to whether the fixation of rates of wages would also include the fixation of scales of wages, the Supreme Court was pleased to observe, in the case of Express News Paper (Supra), that rates of wages and scales of wages were two different expressions with different connotation. While wages include all payments made from time to time a workman during the course of his employment as such and not merely the starting wages at the beginning of his employment, the use of the word 'rate' in the expression 'rates of wages' has not the effect of limiting the connotation of the term. 'Rate' is described in the Concise Oxford Dictionary as "a statement of numerical proportion prevailing or to prevail between two sets of things either or both of which may be unspecified amount, etc., mentioned in one case for application to all similar ones, standard or weight of records (measure of) value, etc.". The Chambers 20th Century Dictionary, the meaning is given as "an estimated amount of value (Shakespeare) and also an amount determined according to rule or basis, a standard; a class or rank, manner or mode". Explaining further their Lordships of the Supreme Court observed:

"Rates of wages therefore mean the manner or mode of standard of payment of remuneration for work done whether at the start or in the subsequent stages. Rates of wages would thus include the scales of wages and there is no antithesis between the two expressions, the expression being applicable both to the initial as well as subsequent amount of wages."

20. On the topic of the capacity of the industry to pay, their Lordships of the Supreme Court observed in the above case.

"The capacity of industry to pay can mean one and three things, viz. (i) the capacity of a particular unit (marginal, representative or average) to pay, (ii) the capacity of a particular industry as whole to pay, or (iii) the capacity of all the industry in the country to pay."

Clarifying the position further, their Lordships observed:

"That the capacity of an industry to pay should be gauged on an industry-cum-region basis after taking a fair cross-section of the industry. In a given case it may even be permissible to divide the industry in appropriate classes and then deal with the capacity of the industry to pay class-wise."

As regards the measure of the capacity again there are two points of view in regard to the same:

'One view is that the wage-fixing machinery should, in determining the capacity of industry to pay, have regard to —

- (i) a fair return on capital and remuneration to management; and
- (ii) a fair allocation to reserves and depreciation so as to keep the industry in a healthy condition.

The other view is that the fair wage must be paid at any cost and that industry must go on paying such wage as long as it does not encroach on capital to pay that wage.

The objective is not merely to determine wages which are fair in the abstract, but to see that employment at existing levels is not only maintained, but, if possible increased. From this point of view, it will be clear that the level of wages should enable the industry to maintain production with efficiency. The capacity of industry to pay should, therefore, be assessed in the light of this very important consideration. The wages board should also be charged with the duty of seeing that fair wages so fixed for any particular industry are not very much out of line with wages in other industries in that region. Wide disparities would inevitably lead to movement of labour, and consequent industrial unrest not only in the industry concerned but in other industries." (Report of the Committee on Fair Wages, p. 14, Para 24).

The main consideration which is to be borne in mind therefore is that the industry should be able to maintain production with efficiency and the fixation of rates of wages should be such that there are no movements from one industry to another owing to wide disparities and employment at existing levels is not only maintained but if possible, increased.

Different tests have been suggested for measuring the capacity of the industry to pay, viz:

- (1) the selling price of the product;
- (2) the volume of the output;
- (3) the profit and loss in the business;
- (4) the rates which have been agreed to by a large majority of the employers;
- (5) the amount of unemployment brought about or likely to be brought about by the imposition of the increased wage, etc.

They are however not quite satisfactory. The real measure of the capacity of the industry to pay has been thus laid down in "Wages and the States" by E.M. Burns at p. 387:

"It would be necessary to inquire *inter alia* into the elasticity of demand for the product, for on this depends the extent to which employers could transfer the burden of the increased wage to consumers. It would also be necessary to inquire how far the enforced payment of a higher wage would lead employers to tighten up organisation and so pay the higher wage without difficulty.

* * * * *

Similarly it frequently happens that an enhanced wage increases the efficiency of the lowest paid workers: the resulting increase in production should be considered in conjunction with the elasticity of demand for the commodity before the ability of a trade to pay can fairly be judged.

* * * * *

Again unless what the trade can bear be held to imply that in no circumstances should the existing rate of profit be reduced, there is no

reason why attempts should not be made to discover how far it is possible to force employers to bear the burden of an increased rate without driving them out of business. This would involve an investigation into the elasticity of supply of capital and organizing ability in that particular trade, and thus an industry into the rate of profits in other industries, the ease with which transferences might be made, the possibility of similar wage regulations extending to other trades, and probability of the export of capital and organizing ability, etc.”.

The principles which emerge from the above discussion are:

- (1) that in the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer is bound to pay the same irrespective of such capacity;
- (2) that the capacity of the industry to pay is to be considered on an industry-cum-region basis after taking a fair cross-section of the industry; and
- (3) that the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organization so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the product—no doubt against the ultimate background that the burden of the increased rate should not be such as to drive the employer out of business.”

In a later decision in *French Motor Car Co. vs. their workmen*, (1962) II LLJ, 744, the Supreme Court further explained the law with the following observation:

“It is now well settled that the principle of industry-cum-region has to be applied by an industrial court, when it proceeds to consider questions like wage structure, dearness allowance and similar condition of service. In applying that principle industrial courts have to compare wage scales prevailing in similar concerns in the region with which it is dealing, and generally speaking similar concern would be those in the same line of business as the concern with respect to which the dispute is under consideration. Further, even in the same line of business, it would not be proper to compare (for example) a small struggling concern with a large flourishing concern.”

In a still later case, namely in *Greaves Cotton & Co. Ltd., vs. Their workmen* (1964) I LLJ, 342, the Supreme Court observed;

“Where there are a large number of industrial concerns of the same kind in the same region, it would be proper to put greater emphasis on the industry part of the industry-cum-region principle as that would put all concerns on a more or less equal footing in the matter of production costs and therefore in the matter of competition in the market and this will equally apply to clerical and subordinate staff whose wages and dearness allowance also go into calculation of production costs. But where the number of comparable concerns is small in a particular region and therefore the competition aspect is not of the same importance the region part of the industry-cum-region formula assumes greater importance particularly with reference to clerical and subordinate staff and this was what was emphasised in the *French Motor Car Company* case (1962-II LLJ. 744) (*vide supra*) where the company was already paying the highest wages in the particular line of business and therefore comparison had to be made with as similar concerns as possible in different lines of business for the purpose of fixing wage-scales and dearness allowance. The principle therefore which emerges from these two decisions is that in applying the industry-cum-region formula for fixing wage-scales the tribunal should lay stress on the industry part of the formula if there are a large number of concerns in the same region carrying on the same industry: in such a case in order that production cost may not be unequal and there may be equal competition,

wages should generally be fixed on the basis of the comparable industries, namely, industries of the same kind. But where the number of industries of the same kind in a particular region is small, it is the region part of the industry-cum-region formula which assumes importance particularly in the case of clerical and subordinate staff, for as pointed out in the French Motor Car Company case (1962-II L.L.J. 744) (*vide supra*) there is not much difference in the work of this class of employees in different industries."

The views quoted above were also relied on by the Supreme Court in the case of Workmen of Sri Bajranj Jute Mills Ltd. vs. Employers of Sri Bajranj Jute Mill (Civil Appeal No. 923 of 1966, dated October 31, 1968—per Vaidyalingam, J.—unreported).

21. On the question of dearness allowance, it should be borne in mind that Indians are living in an age, in which prices have the tendency to rise. This tendency is so constant and so sharp, that a fair wage, fixed for the time being, soon sags, making a revision necessary. This disparity is sought to be met by the additional payment of dearness allowance or allowance given to compensate for the rise in the cost of living. The doctrine was evolved in India. Instead of increasing the wage, as is done in other countries, dearness allowance is paid, in this country, to neutralise the rise in prices. This process was adopted in the expectation that one day the industry may go back to the original price level. But when it was found that it was only a vague hope, at any rate, it could not be expected to fall below a particular mark, a part of the dearness allowance is added to the basic wages, that is to say, the wages to that extent are increased.

22. In considering the question of neutralisation of the rise of cost of living by the grant of dearness allowance the Labour Appellate Tribunal was of the opinion that cent per cent neutralisation cannot be allowed, as it would lead to a vicious circle and add fillip to the inflationary spiral [*Buckingham and Carnatic Company Ltd. vs. its workmen* (1953) I L.L.J. 314]. The Supreme Court approved of the view of the Labour Appellate Tribunal in *Clerks of the Calcutta Tramways vs. Calcutta Tramway Company Ltd.* (1956) II L.L.J. 450 and observed that it would be taken as settled that in matter of dearness allowance, except to the very lowest class of manual labourers, whose income was just sufficient to keep body and soul together, it was impolitic and unwise to neutralize the entries rise in the cost of living by dearness allowance. In short, in the matter of payment of dearness allowance the following consideration should be borne in mind:

(i) capacity of the concern to pay, and

(ii) necessity for such payment having regard to rise in the cost of living.

The caution administered by the Supreme Court in *Wenger & Co. vs. Their employees* (1963 II L.L.J. 403, at 418 that in considering the problem of dearness allowance, the industrial adjudicator is necessarily to adopt a pragmatic approach in fixing the dearness allowance and has to take care to see that the legitimate demand of the employees be met without doing injustice to the employer, should also be borne in mind.

23. On the question of fitment or adjustment to wage scales, it is necessary to take into consideration the principles laid down in the following three Judgements of the Supreme Court:

(a) *French Motor Car Company, Ltd. vs. Their workmen*, (1962)

II LLJ, 744 (750-751) per Wanchoo, J:

"generally adjustments are granted when scales of wages are fixed for the first time. But there is nothing in law to prevent the tribunal from granting adjustment even in cases where previously pay-scales were in existence, but that has to be done sparingly taking into consideration the facts and circumstances of each case. The usual reason for granting adjustment even where wage-scales were formally in existence is that the increments provided in the former wage-scales were particularly low and therefore justice required that adjustment should be granted a second time. In the present case, however, grades of pay for clerical staff which were existing previously provided increments from Rs. 5 to Rs. 10 per year, which was in accordance with the rates of increments prevailing generally in the region for such staff. Further in the case of unskilled workshop employees and subordinate staff the previous rate of increment in the appellant company was comparatively on a generous scale as compared to even

such companies as Dumex (Private) Ltd., and Greeves Cotton Company. The same could be said of the semi-skilled grade and even of the skilled grade previously in force in this company. In the circumstances, it seems to us that there is no justification for adjustment in the manner provided by the tribunal when new scale are fixed in the present scale, and all that should be reasonably provided in the matter of adjustment is that when an employee is brought on to the new scale his pay should be stopped up to the next step in the new scale in case there is no such pay in the new scale. We ought to add that in making the order of adjustment the tribunal did not consider the merits of the rival contentions from this aspect. In a case of this kind we do not think that adjustment should have been ordered almost as a matter of course. Nor have the respondents satisfied us that a case has been made out for granting adjustments even when a comparatively generous rate of increment was in force in this company previously and the company was paying the highest wages in its own line of business."

(b) *Hindustan Times, Ltd. vs. Their workmen*, (1963) 1 LLJ, 108(116) in which Das Gupta, J. reiterated the law as laid down in the French Motor Car Company's case (Supra) in the following language:

"As was pointed out by this Court in recent judgment in French Motor Car Company Ltd. v. its workmen, (Civil Appeal No. 391 of 1962, decided on 13 November 1962—since reported in 1962-II L.L.J. (744) what adjustment should be given is to be decided when fixing wage-scales whether for the first time or in place of an old existing scale has to be decided by industrial adjudication after consideration of all the circumstances of the case. It may well be true that in the absence of any special circumstances an adjustment of the nature as allowed in this case by allowing special increment in the new scale on the basis of service already rendered may not be appropriate. Clearly, however, in the present case the tribunal took into consideration in deciding this question of adjustment the fact that it had been extremely cautious as regards increasing the old wage-scales. Apparently, it thought that it would be fair to give some relief to the existing employees by means of such increase by way of adjustment while at the same time not burdening the employer with higher rates of wages for new incumbents. In these circumstances, we do not see any justification for interfering with the directions given by the tribunal in the matter of adjustments".

(c) *Greeves Cotton & Co. Ltd. vs. Their workmen*, (1964) 1 L.L.J. 342 (349-350) in which Wanchoo, J. again observed:

"We have already said that the tribunal allowed one to three increments depending upon the length of service between 1950 and 1959. It has been urged that no adjustment should have been allowed taking into account the fact that incremental scales were in force previously also in these concerns and the tribunal has increased both the minimum and the maximum in its award and has granted generous annual increments reducing the total span within which a particular employee belonging to clerical and subordinate staff will reach the maximum. Reliance in this connexion has been placed on the French Motor Car Company case (1962-II L.L.J. 477) (vide supra). It is true that the tribunal has given larger increments thus reducing the span of years for reaching the maximum. That alone however is no reason for not granting adjustment. But it is said that in the French Motor Car Company case this Court held that where scales of pay were existing from before no adjustment should be granted by giving extra increments and that that case applies with full force to the facts of the present case. Now in that case this Court pointed out on a review of a large number of awards dealing with adjustments that

'generally adjustments are granted when scales of wages are fixed for the first time. But there is nothing in law to prevent the industrial tribunal from granting adjustments to the employees in the revised wage-scales even in a case where previously pay-scales were in existence; but this has to be done sparingly taking into consideration the facts and circumstances of each case. The usual reason for granting adjustment even where wage-scales were formerly in

existence is that the increments provided in the former wage-scales were particularly low and therefore justice required that adjustment should be granted a second time.'

Another reason for the same was that the scales of pay were also low. In those circumstances adjustments have been granted by tribunals a second time. This Court then pointed out in that case that the incremental scales prevalent in that company were the highest for that class of employees and therefore struck down the adjustments granted and ordered that clerical staff should be fixed on the next higher step in the new scales if there was no step corresponding to the salary drawn by a clerk in the new scale. The question therefore whether adjustment should be granted or not is always a question depending upon the facts and circumstances of each case."

Keeping in view the guide lines provided by the judgments, as hereinbefore stated, I shall proceed to do deliver my awards in the several references.

VI

23. (a) It is convenient for me to begin with a few opening words on wage fixation and its implications in Newspaper industry. Prior to the mid-fifties there was no regulation of wage structure in the newspaper industry. In the majority of newspapers the wage structure was arbitrary and unscientific. Only where the employees were well-organised and had great bargaining power that some desultory attempt had been made, either through agreements or awards, in fixing some sort of wage-scales for them. The position was such that the Press Commission felt that the matters could be improved if at least the minimum wage was fixed, specially in the case of Working Journalists, who at the time did not enjoy any kind of legal protection, like other workmen coming under the protection of the Labour Welfare Laws. It was only in 1956 that the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act was passed and this provided *inter alia*, for fixation of rates of wages by a Wage Board. The first Wage Board under the Act was set up but when the Board recommended its award and the Government notified the relevant order, some of the employees of the newspaper moved the Supreme Court and the order was set aside. The Board had not taken into consideration the capacity of the industry to pay. In view of the unrest evident in the industry following this, the Government by an ordinance set up a Wage Committee made up of officials. This Committee proceeded with great care in the light of the guide lines laid down by the Supreme Court, and the wage scales and allowances recommended by it, though considerably lower than those contained in the first Wage Order, were notified in May 1959. This was not challenged, but in many cases the scales were not implemented. Even though the wage scales fixed by the Committee were considered unsatisfactory by the Working journalists, it was a matter of general satisfaction that at least some kind of rationalisation had taken place on a national scale. Naturally, therefore, the demand for similar rationalisation of wage structure and categorisation in respect of non-journalist employees of newspapers arose. The Second Wage Board for Working Journalists was appointed at the end of 1963 and in February 1964 the Central Government, for the first time, constituted a Wage Board for non-journalist employees of newspapers. While the Wage Board for journalists was a statutory Board, non-journalist's Board was non-statutory one. The two Wage Boards took about four years to complete their work. This long delay led to virtual freezing of wages in many establishments all over the country and consequent frustration among the employees. The employees' organisations complained that the delay was due to the attitude of the employers' representatives. There was also the complaint that the unanimously formulated tentative proposals were considerably watered down at the final stage. What was worse, both employers and employees' representatives appended dissent notes to the Wage Board Report. The main award for Working Journalists was notified on October 27, 1966 and the non-statutory award for the non-journalist employees was notified on November 18, 1967. Employers generally were reluctant to implement either. Subsequently several newspaper managements and one News Agency filed writ petitions either before the Supreme Court or before High Court against the Working Journalists' wage order. There was no move to get the non-journalists award implemented. The employees, journalists and non-journalists alike, began to agitate and a joint call of token strike on January 24, 1968 was given. The strike was successful throughout the country. This was followed by efforts by Union Labour Ministry to bring the parties together for negotiations. Lack of progress in these efforts led to a call for indefinite strike but ultimately the dispute over the non-journalists Wage Board was referred to this National Tribunal.

on the basis of certain agreements. The dispute over the journalists' Wage Board recommendation is now pending before the Supreme Court.

24. The experience of the two Wage Boards for the industry has made it clear that it would be advantageous to have a single Wage Board for the whole industry. Some of the anomalies and disparities noticed in the two awards might well have been avoided if a single Board had gone into the questions involved. Since the non-statutory character of non-journalists' Wage Board has left the field open for negotiations, implying the strong unions can get maximum advantage while weak unions will be at great disadvantages, it would be advisable to constitute a single Wage Board on statutory basis.

25. The report of the Study Group for newspaper industry (Ext.27), from which I have freely borrowed the above observations, made the following observations, in paragraph 6.5:

"One important aspect that must be mentioned is that while the IENS complained about the burden cast on smaller newspapers, the employees' organisations consistently offered to consider the cases of any individual newspaper facing extreme difficulty provided the employers' organisation agreed in principle to the implementation of the two awards simultaneously. This may be taken as acknowledgement of the fact that there are a few small newspapers which for various reasons might find the burden beyond them. The Wage Boards themselves suggested that in some case tightening up of the administration and economising would help some of these newspapers to overcome the difficulty."

Also, in paragraph 7.13, the same Study Group made the following observations:

"The contrast between the economic viability of the bigger newspapers and the difficult financial position of the smaller newspapers is glaring. The complaints about the burden cast by the awards of the two Wage Boards are in part a result of this situation. Among the major reasons for the inability of small and medium newspapers to improve their circulation and revenue speedily is the unequal competition they have to face from newspapers with huge resources often from outside industry itself. The Press Commission's suggestion for a price-page schedule was meant to correct this imbalance. Although the Supreme Court struck down the legislation brought in for this purpose, it appears necessary to enact the law again in the light of the report of the Small Newspaper Inquiry Committee, with necessary safeguards, so that the smaller papers may be enabled to build up circulation, thereby attracting a greater volume of advertisements, and become increasingly prosperous."

In a note of explanation by A. R. Bhat, one of the members of Study Group, it was stated in paragraph 4:

"as wage Boards essentially represent bipartite settlements with third party assistance, their awards should be made non-justiciable. A suggestion has also been mentioned, that the Government should withhold or restrict certain facilities for which the industry is dependent on the Government in the case of establishments which fail to implement the wage Orders."

Mr. Bhat was possibly right when he stated that "the economies of working of newspapers differed widely from that of other industries, in as much as the newspaper is a product that is sold much below its cost of production, in the determination of which the advertisement revenue plays a dominant part. Therefore, by fixing the rates of wages of newspaper employees, utmost care has to be taken that the revision and increases proposed do not have a crippling effect."

26. I have in this opening noted some of the modern views about the wage fixation in newspaper industry. I shall bear them in mind, but in examining the question before me, I as a quasi-judicial Tribunal can only work within the limits of law laid down by the Supreme Court, which I have hereinbefore summarised.

27. It is also necessary for me, in this opening, to say a few words on 'Job Evaluation', a principle with which people are not very familiar but which has made considerable intrusion in commercial vocabulary.

28. In condemning the groupings made by the Wage Board, it was argued before me that groupings were not done on rational principles, for example, it was stated by witness Mr. Moore, incharge of the Composing Department of the Statesman Limited, that a Lino Mechanic and a Lino Operator could not be grouped together because Lino Mechanics were highly skilled workmen while the Lino operators were merely skilled operators. It was argued before me that since the groupings were not made on rational basis, keeping in view, among others, the principles of job evaluation, it is necessary for me to examine the principles of job evaluation at this stage.

29. Wages are the most important single element in the conditions of employment. Yet then, wage differences exist. Such differences occur at several levels. They exist as between countries and, within each country, as between industry or group of industries. Moreover, within one industry there are usually wage differences as between individual regions, firms or plants and within the latter as between different departments. Many of these differences accompany and reflect differences in occupations or jobs—quite apart from the fact that workers engaged on the same job may be paid different wages according to their sex, age or length of service. Finally, individual workers in any occupation or job may also earn different wages, according to differences in personal performance or in working conditions, for example, for heavy or dangerous duties, for night-shift or for overtime work. Also, wage differences are noticeable in payment of wages to 'skilled', 'semi-skilled' and 'unskilled' workmen. While skilled craftsmen are said to be paid in accordance to what they are able to do, semi-skilled and unskilled workers tend to be paid according to what they are actually doing. The fact that people work together in similar or at least comparable jobs, and the fact that formally and precisely described jobs may change when products or the methods of making them are altered, tend to emphasise difference in job contents and the belief that these should be reflected in difference in wages.

30. The technique known as job evaluation aims at providing a more systematic and objective basis for the comparison of job contents as an aid in the establishment of a more rational wage structure. Job evaluation may be defined simply as an attempt to determine and compare the demands which the normal performance of particular jobs makes on normal workers without taking account of the individual abilities or performance of the workers concerned. Individual abilities or efforts may of course, also be taken into account and reflected in the workers' earnings, but this is something entirely different from the rating of the job. Job evaluation rates the job, not the man. The following may be treated as a classic definition of job evaluation given by the British Institute of Management:

"Job evaluation is the process of analysis and assessment of job to ascertain reliably their relative worth, using the assessments as a basis for a balanced wage structure.

Job evaluation is a method which helps to establish a justified rank order of jobs as a whole, being a foundation for the setting of wages.***

Job evaluation is the evaluation or rating of jobs to determine their position in a job hierarchy. The evaluation may be achieved through the assignment of points or use of some other systematic rating method for essential job requirements, such as skill, experience and responsibility.****

There are four main types of job evaluation schemes based on four different methods, namely the ranking method; the grade or classification method; the factor comparison method; and the point rating method. The first two are usually referred to as 'non-analytical' methods while the latter two are known as 'analytical' methods.

31. Of the non-analytical methods, *ranking* may be described as the simplest of all the job evaluation methods. It merely entails placing the jobs in order of the demands they are considered to make on those who perform them, on the basis of their titles only or of simple descriptions of each job as a whole. These operations are quite simple in the case of a small plant with only a few jobs, but may prove unsatisfactory in a large plant with a considerable number of jobs, some of which may be quite complex. The second method under the heading non-analytical method, namely, *Grade or Classification method* is widely used for salaried jobs, including those in government and service occupations. It is also used for manual jobs in some industries in which the same worker is called upon to perform a variety of more or less standardised jobs for which standard rates of remuneration can be fixed, as in engineering workshops and in the electrical and shoe industries. This method differs from the ranking method

in that labour grades are established before actual job characteristics are examined. The number of grades is decided upon, and the functions corresponding to these grades determined; only then are descriptions prepared for each job and matched with those of the different grades established. The grade descriptions are framed in such a manner as to cover discernible differences in degree of skill responsibility and other job characteristics. The lowest grade may cover jobs which merely require the workers concerned to follow simple instructions under close supervision. Each succeeding grade will reflect a higher level of skill and responsibility, with less and less supervision. Since the method is non analytical, jobs are not broken down into their component parts but, as in the ranking method, considered as a whole.

32. Of the analytical methods *Factor Comparison method*, though less refined than point rating system, is rather complicated in practice. For this and also for some other reasons, it is not very widely used. As originally developed, this method involved the ranking of different jobs in respect of certain factors and, usually also involved the assigning of money wages to the jobs. The fact that the method leads directly to the determination of wages (for which reason it has been called the "weight-in-money" or "direct-to-money" method) has been regarded as an undesirable feature by those who consider that the only task of job evaluation is the comparison of job contents, an act which logically is completely distinct from the fixing of wages. The first task in applying the method is to select and clearly describe the facts to be used. These may be, for example: (i) skill; (ii) mental and educational requirements; (iii) physical requirements; (iv) responsibility and (v) working conditions. Each of these may be subdivided; for example, working conditions may be broken down under such headings as "temperature", "dust" and "other inconveniences", and responsibility into "responsibility for other people", "equipment," "progress of the work of a crew", etc. The ranking of jobs in respect of each of the facts and the subsequent fixing of wages are first carried out for a number of 'key jobs' or 'bench-mark jobs' which serve as points of reference for the later evaluation and ranking of the other jobs. For this purpose, the key jobs should satisfy a number of conditions. First, they should be capable of clear description and analysis in terms of the factors used. Secondly, the group of jobs selected should cover a sufficiently wide range as regards the importance of each factor. Thirdly, when the rates for the key jobs are to be used as the standard for the fixing of appropriate wages in the other jobs, these rates should be regarded as appropriate by all concerned and, in the case of some jobs, should not differ too much from the rates paid for these or similar jobs in the local employment market. Finally, the key jobs should include jobs covering a sufficiently wide range of pay grades including, specifically, the lowest and one or more among the highest-paid jobs in the plants concerned. The number of key jobs thus required as a basis for a job evaluation plant of the fact comparison type depends on the number and variety of job in the organisation. The second method under the analytical method known is *Point Rating method*. This is method which combines comparative analysis of job contents in respect of facts with the principle of grading or classification. As with the factor comparison method, a number of factors are distinguished, but instead of jobs being simply ranked in terms of the various facts, a number of degrees are first distinguished for each factor (e.g. very small, small, average, large or very large). These degrees must, of course, be defined in a fairly detailed manner, the jobs being analysed by reference to such definitions rather than with respect of each other—although the latter operation is also performed as a check on rankings obtained on the basis of degree definitions. In some systems, account is further taken of the relative frequency or duration of the various factors as they occur in the normal performance of the job. The various factor degrees are assigned certain point values, expressing the importance attached to the various elements composing a job. The simple or 'weighted' addition of these points leads to a single measure of the content of the job which can then be used for the fixing of suitable relative wages. Thus, the first steps involved in applying the point rating method are (a) to select and define the factors that will be used in evaluating jobs; (b) to determine the number of degrees to be distinguished under each factor, and to describe them; and (c) to assign point values to each degree of each factor. Job descriptions are next prepared, on the basis of which the jobs are evaluated. This can be done either by taking each individual job and comparing the job description with the degree definitions in respect of all factors or by valuating all the jobs in terms of the first factor, then of the second, and so on. In practice both methods are used, the latter being employed as a check on the results of the former.

33. The Book published by the International Labour Office on the Job Evaluation, from which I have freely borrowed above, the following advantages and limitations of job Evaluation are given:

Advantages

(1) Job evaluation is a logical and, to some extent, objective method of ranking jobs relatively to each other. It may thus help in removing inequities in existing wage structures and in maintaining sound and consistent wage difference in a plant or industry. It may also result in a simpler wage structure than the existing one, more easily understood and accepted by the workers.

(2) In the case of new jobs, the method often facilitates fitting them into the existing wage structure.

(3) The method helps in removing grievances over relative wages and thus may improve labour-management relations and workers' morale, in addition to reducing the time that management and trade union officers have to devote to such grievances, enabling them to deal with other important matters. In providing a yard-stick by which workers' complaints or claims can be judged, the method simplifies discussion of wage demands and enables differences in wages to be explained and justified.

(4) The method replaces the many accidental factors occurring in less systematic procedures of wage bargaining by more impersonal and objective standards, thus establishing a clearer basis for negotiation; this too may help in improving labour-management relations.

(5) The method may lead to greater uniformity in wage rates, thus simplifying wage administration. If widely applied in an industry, it also tends to facilitate wage comparisons between geographically separated employment markets, which again may be helpful for certain bargaining purposes.

(6) The information collected in the process of job description and analysis may also be used for the improvement of selection training, transfer and promotion procedures on the basis of comparative job requirements.

(7) Such information also often reveals that workers are engaged on jobs requiring less skill and other qualities than they possess, thereby pointing to the possibility of making more efficient use of the plant's labour force. More generally inefficiencies in the organisation and methods of work and possibilities of improving working conditions and reducing job hazards may be discovered.

Limitations

(1) Although there are many ways of applying job evaluation in a feasible manner, rapid changes in technology and in the supply of and demand for particular skills raise problems of adjustment that may need further study. Perhaps difficulties of this nature are more serious with point rating system for example, with certain versions of the factor comparison method which do not involve pre-determined degrees of the various factors.

(2) However logical and consistent a system may be account has to be taken of various limits to the possibility of changing apparently illogical elements in an existing wage structure. Certain external rates may have to be paid for "hiring jobs" whether they are compatible with the job evaluation system or not, traditional wage relationships, however, inconsistent they may be, cannot always be altered . . .

(3) When job evaluation results in substantial changes in the existing wage structure, the possibility of implementing these changes in a relatively short period may be restricted by the financial limits within which the firm has to operate.

(4) When there is a large proportion of incentive workers, and especially when incentives have to be changed frequently, it may be very difficult to maintain a reasonable and acceptable structure of relative earnings.

(5) In any case, job evaluation does not provide a complete answer to the wage problem. It has nothing to say about the absolute wage level and little about the absolute size of the wage differentials appropriate to the evaluated job structure. It is not concerned with questions of rewarding loyalty, seniority or merit, and its consistent application may be very difficult in cases where payment by results is applied.

(6) In particular, the process of job rating is to some extent arbitrary because few of the factors and degrees can be measured with great accuracy. This process can certainly not be regarded as "scientific" and it can be considered "objective" at best in the sense that, under ideal conditions, it is free from deliberate bias. All that can be expected to emerge from the process is a well-considered and honest, but basically subjective, evaluation of jobs.

(7) Job evaluation takes a long time to instal, requires specialised technical personnel and may be quite costly.....

(8) The drawing up of job descriptions tends to formalise job contents, which may lead to abuses by workers who acquire a vested interest in maintaining the requirements for certain jobs.Very precise and detailed job descriptions may also make it impossible to assign occasional jobs not explicitly provided for in the descriptions.

(9) Trade unions often regard the method with suspicion and in some cases with hostility. In such cases, job evaluation may still be useful in helping management to clarify its own ideas as to what is to be regarded as a suitable wage structure, but the possibilities of using the results of the method in actual wage negotiations and in the settlement of grievances will be limited.

34. It would appear from various comments and experiences, that although job evaluation has in many cases been applied with satisfactory results, the method is not yet universally regarded as useful aid in designing rational wage structure. Some people believe that the method is not in harmony with certain economic principles, which, in their view, should govern fixation of relative wages. At the present stage, the method is rather restricted in its application. In my opinion, it should remain restricted for the present because time has not yet arrived when the principle of job evaluation may be accepted as a well-tried scientific principle, satisfactory to all. By drawing inspiration only from the neo-fangled idea of job-evaluation, I may err grievously. I, therefore, do not propose to proceed on the basis of the said principle more particularly because there is no evidence before me that by application of those principles, different results would have been worked out. I should better rest on the safe anchorage of the Supreme Court decisions on the point.

VII

The Newspaper Establishment of The Statesman Limited.

35. I now take up for consideration the industrial dispute concerning the newspaper establishment of The Statesman Limited, Calcutta and New Delhi. That establishment publishes more than one newspaper from more than one centre, namely, The Statesman (Delhi), The Statesman (Calcutta), The Statesman Weekly (Calcutta), Junior Statesman (Calcutta).

36. In the written statement filed on behalf of The Statesman Limited certain preliminary objections were taken as regards the maintainability of the reference and the jurisdiction of this tribunal to entertain the reference. They are to be found in paragraphs 3 to 6 of the written statement.

37. In paragraph 3, it is stated that the order of reference is, unduly restricted in character, unfairly discriminatory in nature and negative in approach, apart from being not permitted by law on the powers of the tribunal and on the scope of fair adjudication.

38. I have hereinbefore set out the disputes referred to this tribunal. They do not appear to suffer from the infirmities levelled against the orders of reference in the above quoted paragraph. What I believe, was meant to be said was that if the recommendations of the Wage Board were wholly fair and wholly reasonable, then nothing need be done by the tribunal; if they were wholly unfair and wholly unreasonable, it was beyond the capacity of this tribunal to rewrite the report, all the more so because a tribunal was not a Wage Board; if, however, the recommendations were partly unreasonable and partly unfair then only this tribunal could modify them. Therefore, what was sought to be argued was that if the tribunal found that the recommendations of the Wage Board were wholly unreasonable and wholly unfair, the tribunal should hold the reference itself to be bad. I do not find any substance in this argument. If the recommendations by the Wage Board are wholly fair and wholly reasonable, I need hold that no modification need be made thereto and that the newspaper establishment should implement them. If they are wholly unreasonable and wholly unfair, this tribunal as a National Tribunal may award fair wages and dearness allowance on evidence. If the recommendations are partly unfair and partly unreasonable, this Tribunal may remedy the defect in its award based on evidence.

39. In paragraph 4 of the written statement of The Statesman Limited, it was stated:

"That the recommendation of the Wage Board are not conditions of service, express or implied, nor are connected with such conditions of service of

the company's workmen and cannot, therefore, acquire the status of industrial dispute within the meaning of Industrial Disputes Act. Consequently the industrial tribunal has no power under law to adjudicate unfairness or unreasonableness of such recommendations."

In paragraph 5 of the said written statement it was further stated:

"Recommendation of Wage Board being not 'industrial dispute' is outside the scope of reference under Sec. 10 of the Industrial Disputes Act particularly when both the parties have challenged the justiciability of the recommendations of the Wage Board in some form or another."

In my opinion, the above two objections are wholly mis-conceived. The purpose for which Wage Boards are set up are well known. The recommendations by Wage Boards contain the result of expert investigation on wages, wage-scales and other benefits to workmen. In the instant case, the recommendations by the Wage Board have been made but have not been fully implemented by the employers. The workmen have raised a dispute demanding implementation of the recommendations. That demand is being sought to be repelled by the employers with the contention that recommendations are unreasonable and unfair. The difference of opinion between the employer and the employees is such as amounts to an industrial dispute liable to be adjudicated upon by an industrial tribunal.

The observations contained above also negate the preliminary objection contained in paragraph 6 of the written statement which objects to the role of this tribunal, as if it were a Court of Appeal on the Wage Board.

40. Before I turn to the part of the written statement dealing with the merits of the dispute I need dispose of a point, taken in paragraphs 13, 14 and 15 of the written statement, which I set out below:

- "13. The Company wishes to state, at the outset that the preamble to the order of Reference is likely to create complications as to the proper and real scope of the present adjudication. As the Company was unable to implement the Wage Board's Recommendations, its ultimate willingness to pay 75 per cent of the difference between the existing emoluments and the emoluments payable under the Wage Board's Recommendations, was on a tentative basis for final adjustment on the results of an adjudication by an Industrial Tribunal.
14. It is submitted that in any event, the subjects described in the preamble are extraneous to the merits of the dispute between the parties and have also not been specified for adjudication and should not therefore be taken into account while adjudicating on the matter specifically referred to adjudication.
15. The Company, therefore, submits that the Tribunal would be pleased to frame the "issues" for adjudication afresh on the basis of the pleadings and to adjudicate on the demand of the workmen relating to the revision of the existing wage structure of the company including Gratuity in accordance with the principles of law and equity. The Company further submits that in view of the specific matters referred to adjudication, the question of the determination of a fair and just wage structure for non-journalists is at large before the Tribunal and should be decided by the Tribunal unfettered by the preamble and regardless of the Wage Board recommendations."

The portion of the preamble to the order of reference, dated September 17, 1968, to which objection was taken in the aforesaid paragraphs reads:

"Whereas the employees have since agreed to pay in addition to the existing emoluments, 75 percent of the difference between existing emoluments and the emoluments payable under the Wage Board recommendations, to the workmen covered by the recommendations, of the Wage Board, from the date of resumption of work by the workmen and have further agreed to continue to pay the same upto the date when the award on this reference becomes enforceable."

This point was hotly disputed in paragraph 17 of the rejoinder filed on behalf of the Employees Union. In my opinion, the point taken in the aforesaid paragraphs is unworthy of being sustained. On September 15, 1968, the following letter was addressed to Mr. Kedar Ghosh, Chief Administrative Officer of the Statesman Limited, by the Additional Secretary, Ministry of Labour and Employment (Ext. 29):

"During the discussions which the Labour Minister had yesterday with the representatives of the various newspaper establishments, it was

suggested that if a bipartite settlement could not be arrived at, the present dispute could be referred to adjudication on two conditions, namely: (1) the employers should agree to pay, in addition to the present emoluments, 75 per cent of the difference between the present emoluments and the emoluments to which an employee would be entitled under the Wage Board recommendations, and (2) that an employees should be assured of the quantum of emoluments as determined above even after the adjudication award. You had suggested that you would convey your reactions by tomorrow. I shall be grateful if you could let me have your reply immediately so that we can proceed in the matter in case a bipartite settlement is not possible."

To that letter Mr. Ghosh sent a reply on September 16, 1968, Ext. 29(a), the material portion of which is set out below:—

* * * * *

I would like to recall that I, separately and jointly with other representatives of newspaper managements, had suggested, several weeks ago, that the dispute be referred for adjudication and we would be willing to pay 75 per cent of the difference between the recommendation and the existing wages as interim payment pending such adjudication proceedings.

I note that this suggestion, in its basic principles, has been brought up now in your letter. Though the Minister's proposal varies from what we suggested earlier, yet, for resolving the deadlock and as a gesture of good will I signify our consent to all issues relating to revision of the wage structure as recommended by the Wage Board being referred for adjudication. I further agree that we will make an interim payment of 75 per cent of the difference between the present emoluments and the emoluments each employee would have been entitled to under the Wage Board recommendation from such date as each employee resumes work. It is understood that the quantum of emoluments as determined above, will be maintained under the award.

The above consent is subject to workers and the Unions agreeing to call off the strike without raising any other conditions and the workers giving an assurance for good behaviour and efficiency expected of them on resumption of work."

* * * * *

Reading the two letters together, there is little doubt left that arrangement for payment of 75 per cent was not tentative. This tribunal is not required to over-ride the agreement, because the present dispute is not a dispute over the agreement. In other words, the Statesman Limited as employers are bound to implement 75 per cent of the benefits of the recommendations by the Wage Board. This Tribunal need only find out whether they should also implement the remainder, that is to say, the remaining 25 per cent of the benefits of the recommendations of the Wage Board. The ground now stands clear of all preliminary objections.

41. Against the merits of the recommendations of the Wage Board, it was stated that they suffered from serious infirmities, namely, disregard of well-recognised principles of wage fixation and dearness allowance, as summarised in paragraph 17 of the written statement:

- "(a) that the principle of Industry-cum-Region formula should be applied in fixing or revising wage structures for the principle behind the Region-cum-Industry basis is that concerns of more or less same standing in the same industry in a particular region should have as nearly as possible same wages so that they might stand on par with one another in the matter of competition.
- (b) that where a concern is paying the highest wages in a particular line of business, there should be greater emphasis on the region part of the industry-cum-region principle to ensure that for the purpose of comparison such other industries in the region are taken into account as are as nearly similar to the concern in question as possible.
- (c) that the fixation or revision of scales of wages or dearness allowance etc. must not be out of tune with the wages etc. prevalent in the industry at the region so that unfair competition may not result between one establishment and another and diversity in wages in the region may not lead to industrial unrest.

- (d) that the Newspaper Industry being essentially a printing Press industry so far as the printing and publication work are concerned wages for comparable job in the printing Industry should as far as possible be uniform to avoid unpleasant and inconvenient consequences.
- (e) that the amount of dearness allowance should be determined with reference to the regional cost of living index figures.
- (f) that the employees belong to the Administrative Staff have their comparable counterparts in the various mercantile firms in and around a particular region; likewise, the Factory Staff have also their comparable counterparts in the Printing Press Industry in and around a particular region. These categories of employees have sufficiently well denned wage structures settled by Agreements or Awards on the basis of their respective job evaluation. The Wage Board's Recommendations are vitiated by not taking into consideration the prevailing pattern of the wage structures applicable to these categories of employees in and around a particular region and by classifying those categories of employees into various groups for the purpose of fixing their wages, not on the basis of job evaluation, but solely on the basis of their nomenclatures or designations."

It was further stated that in the matter of fixation of wages the Wage Board disregarded the principle of capacity of the industry to pay on industry-cum-region basis after taking a fair cross-section of the industry into consideration. It was also stated that the Wage Board erred in its finding that the Statesman Limited were in a position to bear the burden likely to be imposed by the proposed wage scale. It was alleged that the finding was unrealistic, because in considering the financial impact, the Wage Board did not take into consideration the following factors:

- (i) the incremental scales of wages.
- (ii) repercussion on the amount of dearness allowance on account of increased cost of living and on account of high increments.
- (iii) gratuity as recommended by the Wage Board.
- (iv) company's financial liability on account of contribution to Provident fund, E.S.I., December Special payment, four days' Puja payment leave with wages, over time payment etc., as a result of the increased wages and dearness allowance

Analysis of the financial burden, as made by the Wage Board, was further condemned because, the Board

- (a) allowed only 6 per cent return on the paid up capital, which cannot be considered a fair return.
- (b) did not take into account the other relevant factors e.g. a fair allocation and return to reserve or rehabilitation requirements so as to keep the industry in a healthy condition.
- (c) did not consider that the peculiarity that the News-paper Industry had to depend largely on imported machineries and also on the spare parts for the purpose of replacement and that apart from the well-known difficulties arising out of control and restrictions in the matter of importing Newspaper machinery and spare parts, the cost of these imported items had increased after devaluation.

The classifications made by the Wage Board on the criterion of gross revenue the Wage Board should have taken into consideration:

- (a) the spiralling cost of materials and the upward trend of expenses;
- (b) control on news print, reducing import and compelling purchase of white printing paper, which is 50 per cent costlier per ton;
- (c) business recession affecting the advertisement position;
- (d) competition by Commercial Advertisement over A.I.R.
- (e) the Government Educational Policy of replacement of English by Hindi and regional languages affecting the leadership of English Dailies;
- (f) additional burden imposed on news-agencies as a result of recommended increase in wages, which will be passed on by the news-agencies to the various newspapers depending on their services;
- (g) the recommendations of the National Labour Commission for introduction of the price wage scheme and the ceiling fixed for advertisement at 40 per cent of the total space in the newspaper.
- (h) borrowings by the company and limited financial resources of a newspaper;

In paragraph 25 of the written statement, it was stated that the Wage Board failed to consider or tackle the question of wage structure from the stand point of a long range plan and also failed to consider the following relevant questions:

"What are the prospects of the Industry in the future? What should be the extent of the burden and its gradual increase which the Company may have to face? What is the long range view of the financial capacity of the Industry? What would be the effect of increase on other similar industries in the region or the effect of rise in prices resulting in the rise of wages affecting the employer, the employees, the consumers and the country?"

The classifications made by the Wage Board on the criterion of gross revenue was condemned, in paragraph 35, in the following language:

"It is further submitted that the criterion of "gross revenue" for the classification of the concerns into different classes cannot and should not create wide disparity in wages between comparable jobs performed by workmen of different concerns and this is just what the Wage Board has done and its recommendations are therefore vitiated."

The classification of the employees, as made by the Wage Board, was condemned, in paragraphs 36 and 37, as hereinafter stated:

"(36). It is further submitted that the Wage Board acted erroneously in fixing wages at varying rates by reason solely of the classification of the newspaper establishments irrespective of the nature of the jobs of different designations and without due regard to the industry-cum-region basis and without due regard to the correct principles to determine the financial capacity of the industry to pay.

37. The Wage Board acted erroneously in grouping the different designations only on the basis of nomenclatures and thereby putting senior employees and junior employees on the same scales of pay irrespective of the higher responsibility of the senior employees with consequent labour unrest"

In the matter of fitment the Wage Board's recommendations were condemned, in paragraph 46, in the following language:

"(46) **the Wage Board's recommendations regarding 'fitment' should not be made applicable to the Company as the scales of wages prevalent in the Company prior to the recommendations of the Wage Board have been in force for a long time having been determined and regulated from time to time by industrial adjudication and collective bargaining."

42. The written statement is long and prolix. I have attempted to give a summary of the relevant paragraphs thereof, in so far as necessary at this stage. I may have to refer back to it in the context of particular argument advanced by the counsel for the parties, when dealing with particular points.

43. There were two written statements filed on behalf of the workmen, one by the workmen represented by the Statesman Employees Union, Calcutta and New Delhi, and the other by the workmen represented by the Statesman Clerical Staff Union. The written statement filed by the Statesman Employees Union views successfully with the written statement filed by the Statesman Limited in bulk. In paragraph 3 of the written statement it was stated that:

"Besides it has the best Job and Process Sections in the country yielding a good income to the company".

Paragraphs 6 to 47 of the said written statement contain a historical account of the long and bitter struggle over wages and other benefits between the employers and the workmen. The conduct of the employers has been condemned in scathing language and I quote hereinbelow one passage therefrom:

"With a static pay scale and dwindling real wages, the employees are waging a hopeless battle against the run away prices of spiralling cost of living. Meanwhile the officers and the senior journalists in the company have taken a lion share in the mounting profits."

In paragraph 48, there is a chart showing that between the scale of pay before 1961 and the present pay scale there is little difference except for meagre increase in the examination of grades. Paragraph 49 to 57, contain a description of the alleged unrealistic dearness scheme in the company and the reasons why those are so related. Paragraphs 68 to 70 contain a summary of the Wage Board recommendations. Paragraph 72 to 74 contain general criticism of the wages as recommended by the Board and are set out below:

"(72) ** that the Wage Board has not taken into consideration the formula of need-based wage. It has recommended for daily newspapers a total wage of Rs. 180 for the lowest paid employee in Class I area in Class I newspapers and Rs. 80 in area III for Class VII newspapers. By any calculations the need-based wage will be much more than Rs. 80 in Class III areas and Rs. 180 in the Class I areas.

(73) The Board has even failed to give an adequate *subsistence wage*, what to talk of a need-based wage. The subsistence wage, when has been described by various wage-fixing authorities, is that wage which enable a worker to maintain himself and his family in a state of health and reasonable comfort. In the terms of Justice Higgins, it is that quantum of wage which will keep the body and soul of a worker together.

(74) The Wage Board has also failed to maintain the wage partly with the other section of the newspaper employees, namely, working journalists. It has failed to give adequate justice to the non-journalist employees in this regard. If a comparison is made between the recommendations for the non-journalists and for working journalists, it is apparent that double standards have been used."

In paragraphs 80 and 82, the scheme of dearness allowance as recommended by the Board is condemned in the following language:—

"(80) The scheme adopted by the board and also for the working journalists is against the well-settled principles of D.A. The unions do not know what part of D.A. is merged in the basic salary; but comparing the existing emoluments with the basic wage provided in the proposals the Unions feel that not even 70 per cent neutralisation is allowed by the board.

(82) ** that tho D.A. fixed by the board is not at all adequate. And particularly in fixing the rise in D.A. after 1968 there is lack of logic and there is no approach except fixing some arbitrary 50 Paise for one point over the All India Consumer Price Index of 166 points. The unions may be permitted to say that there is no approach to consider that could be purchased with this 50 Paise when the prices would move by one point over 1965 level."

In paragraphs 91 and 92, the scheme of fitment has been condemned in the following language:—

"(91) With regard to service increments as per sub-para 5 of Para 29 of the Wage Board, the Unions submit that the provision for two increments is also unjust, harsh, discriminatory and against the principles laid down by the Supreme Court and other wage-fixing authorities. The Unions wish to draw the attention of the Hon'ble Tribunal to the fact that several wage-fixing authorities, including the Second Pay Commission and the Khosla Tribunal on Air India, gave point to point adjustment.

(92) In the case of journalists, the Wage Committee give five increments and two have been proposed by the Wage Board for Working Journalists, making a total of seven increments in the revision of their wages during the last nine years."

The idea of the unions as to what should be the pay scales are stated in paragraphs 97 to 99, which are much higher than what were recommended by the Wage Board. In paragraphs 110 to 120, the profitable industrial condition of the Statesman Limited is described, for example, the company declared dividends ranging from 12½ per cent to 17 per cent between the years 1959 to 1964, capitalised a sum of Rs. 13,20,000 as bonus shares for the benefit of shareholders and earned huge sums as advertisement revenue. In paragraph 134 of the written statement it is staged:

"(134) Apart from its growing prosperity year after year, the company's expansion both vertically and horizontally, with its strong and sound capital, with the backbone of monopoly capital, the factor relating to other establishment expenses including remunerations and commissions to directors, dividends to shareholders, salaries to the administrators—all prove that ethically, morally and on socio-economic aspect company cannot deny better and higher wages to the non-journalist section."

All these facts were emphasised upon to show that the employer company had capacity to pay the wages recommended by the Wage Board and even much more. In paragraph 167 it is urged that the recommendations of the Wage Board should be given retrospective effect from February 25, 1964 when the Wage Board was constituted.

44. The Employees' Union also filed a rejoinder to the written statement filed by the Statesman Limited. That was necessary because the statement at first filed by the Employees' Union did not traverse the written statement filed by the Statesman Limited but ran on its own independent lines. In paragraph 4 of the rejoinder it was stated:

"In their written statement the Unions have pointed out that the recommendations of the Wage Board are substantially good and correct so far as they go. But the Unions have contended for extending the scope and depth of the benefits given by the Wage Board's recommendations."

45. The rejoinder states that the employer company has the capacity to pay, disputes that a return of 6 per cent on the paid up capital is not a fair return and further disputes that the Wage Board's recommendations would prevent a fair allocation and return to rehabilitation requirements. In paragraph 16 of the rejoinder it is said:

"16. It is not understood what the Company means by saying that one of the objectives of wage fixation is that there is no movement from one industry to another and that the employment at the existing level is maintained or increased. It is nobody's fault that because of increase in the level of wages and emoluments of the Newspaper employees there were large scale migration from other industries to the newspaper industries. The newspaper industry's employees mean particularly skilled in a special way and apart from the newspaper industry there cannot be any other industry whose wage earning staff can or may be allured at all to the newspaper industry because of the bigger earnings of the employees in newspapers.***"

The other paragraphs of the written statement of the Statesman Limited have been generally denied and disputed. I need not refer to them in further detail.

46. The Statesman Clerical Staff Union, as already stated, submitted a separate written statement. In paragraph 10 of the said written statement it is stated:

"10. That the Wage Board, without considering the special facts and circumstances in regard to the company, recommended the scales of pay for the Administrative Staff***. The effect of this revision was very much to the detriment to the interest of the members of this union in as much as the recommendation failed, amongst others, to preserve the existing differentials between the workmen doing manual work and those doing clerical work, and this was without any justification and without any valid reasons."

There was an industrial dispute raised at the instance of the Clerical Union claiming better wage structure than what has been provided by the recommendation of the Wage Board and the employer company made certain positive offers in place of the recommendations of the Wage Board. The Clerical Staff Union was ready to accept the proposals offered by the company subject to certain modifications. Unfortunately, however, the employer company did not give effect to their offer far less to the modifications suggested, because as stated in paragraph 18:

"18. That plea taken by the company was that they could not settle with this union unless the dispute with the factory workers over their scale of pay was also settled. This union entered into separate agreements with the company all along in the past and never such plea was taken by the company. The agreements with the other union were separately concluded in consideration of their separate cases."

According to the Clerical Staff Union there was no justification for withholding the offer made by the company at one stage over and above the benefits provided by the Wage Board. They asked for such benefits as were set out in Annexure

'D' to their written statement. I shall have occasion to refer to the said annexure, if I find that the recommendations by the Board were either wholly or partly unfair or unreasonable.

47. After the order of reference with regard to "the Statesman" was amended, on March 7, 1969, the Statesman Limited filed a very short written statement. The entire case with regard to the amended reference is contained in paragraphs 1 and 2 of the additional written statement which are set out below:

"It is unnecessary to set out any further or other facts relating to The Junior Statesman. The Hon'ble Court will be pleased to refer to the evidence given by Mr. S. K. Banerjee and Mr. W. H. Smith. It was emphasised by the witness that the The Junior Statesman is printed in the Job Department at Calcutta which is not a part of the Statesman daily newspaper establishment. The Junior Statesman is a weekly journal of the Statesman Limited and the loss in its publication is a loss in the revenue account of The Statesman Limited.

The same observations are applicable to The Statesman Weekly which is also published from the Job or Commercial Printing Department of the Calcutta Statesman."

Since the Statesman Limited did not file a more comprehensive statement, the Employees' Union also filed a short written statement, out of which only paragraph 5 is relevant for my purpose:

"5. That the workmen of the Job Department are newspapers employees, since besides printing the Statesman Weekly the Telegram News Service and the Junior Statesman, also print all the stationery—vouchers, letter heads, advertisement rate cards, circulation literature etc. of the Statesman. That the Job employees do newspaper work and that they are part and parcel of the newspaper establishment can be found from the evidence recorded. It would appear from the fact that the Statesman Weekly and the Junior Statesman are shown to be printed at the Statesman Printing Press."

48. On behalf of the employers, five witnesses were examined. The first witness was Samuel Antony Moore, Superintendent of the Composing Department. There is no dispute that he is a Printer of some reputation. In his evidence he described a rough and ready method of job evaluation of persons serving in his department. He said:

"There are about 165 men, who serve in my department. I know about their respective skills in various degrees. There are five skilled workmen, in my department, who belong to the senior supervisory staff. There is a Deputy Superintendent in my department, who is a highly skilled man. There are two printers in my department but they are not so highly skilled. I rank them as skilled workmen. There are three assistant printers. They have the same qualification as the printers have. There is a Chief Advertisement Officer. He is as skilled as the printers are. There is a Chief Lino Mechanic who is highly skilled. There are two Lino mechanics, both of them are highly skilled. I rank the Lino Operators, in my department, as skilled operators but not as highly skilled operators. The Composition Supervisor, working in my department, may be ranked as below the Assistant printers in skill... Make up men do the work on the advertisement side. They put the blocks and type materials inside a frame which we call 'chase'. They get Rs. 115 as basic salary and there are five such workmen. I prefer to rank them as semi-skilled workmen. ... A ludlow operator has a slightly lesser degree of skill than a lino operator. For a lino operator, after he taps the key board, the work is mechanical. In case of a ludlow operator he has to keep up types and place them in a steel frame called a stick. This work is partly manual and partly mechanical.

To Tribunal

In making job evaluation we not only apply the test of degree of skill required for a particular kind of work but the nature and essentiality of the work."

He also spoke, from his experience about the number of printing machine working in Calcutta and Delhi offices of the Statesman. According to him, some of the

machines were pretty old. But to deterioration of efficiency, he said, it was not economical to use them any more. He very much wished that they should be replaced. In course of cross-examination, however, he admitted:

"I recommended replacements of the machines as far back as 1956 but the Board of Directors did not think of providing money for such replacement until the time as indicated by me hereinbefore. Only two lino type machines in Delhi are less than 20 years old. I do not think that all the machines are working to the satisfaction of the operators, they are giving much trouble. Some of the spare parts can be made locally. Some parts are of complicated type and cannot be made here. We have never tried the resale value and cannot say how much such value may come upto."

The Directors did not become equally enthusiastic for replacement because, possibly the witness had exaggerated idea about the necessity of replacement. He said:

"A man is called highly skilled firstly because he drawn higher wages and secondly because he does work of responsibility. I agree with you that generally there may be high wages paid to a person but he is not necessarily a highly skilled person. Mr. A. Bose is the registered printer working in the composition department. I do not know his exact educational qualifications. He is the registered printer responsible for the publication of the paper. I am the more responsible officer than A. Bose. Mr. Holland is the Deputy Superintendent in our office. Mr. Holland assists myself in my technical job. I myself get a salary of Rs. 2,400/- per month. Mr. Holland gets about Rs. 1,100/- per month and Mr. Bose possibly gets Rs. 2,400/- per month. A printer gets Rs. 420/- per month plus D.A. I cannot contradict you if you say that Mr. Bose has no technical qualification and no academic qualification. In the matter of fixation of wage scale in the Statesman organisation, there exists an anomaly in my opinion particularly say for example, between the registered printer and the printers."

The second witness, examined by the employers, was S. K. Banerjee, the Accountant. He spoke of the financial burden of the recommendations made by the Wage Board and criticised the same in the following language:—

"The financial burden on account of implementation of the final proposal of the Wage Board as at page 21 of the Report of the Wage Board is not the correct figure, because it only indicates the initial burden for fitment in salaries only. (Witness produces a statement of annual financial burden of Statemens Ltd. prepared by himself). The calculation made by the Wage Board leaves out additional burden of Prov. fund contribution, E.S.I. contribution, Overtime payment, Special December Payment (which is a type of festival bonus) and Gratutities."

He also made a grievance that in calculating the net profit the Wage Board did not take into consideration the appropriations to be made from out of the net profit for Rehabilitation and Income Tax. He gave details about the increased sums of money required for purchasing new printing machines and further states:

"We have recently obtained import licences for purchase of four lino type machine. The C.I.F. cost of the four machines come up to Rs. 4,46,000/-. (Witness produces a chart on increase in percentage of costs of certain expenses compared to 1962. This chart has been prepared by myself, marked Ext. 21). The year 1962 was taken as the base year. Under different headings increase in percentage of newsprint, salaries and wages, upkeep of cars and vans, postages, repairs and general charges have been shown."

According to him, price of newsprint recorded a steep rise, due to non-availability, so much so that the cost of paper that was consumed per copy of newspaper was not recovered by the selling price of a copy of the paper. In course of cross-examination he admitted:

"The annual burden, due to increase in wage scale of the company would be near about Rs. 85,000/- inclusive of increase in basic salary and D.A. Taking into account the linkage dearness allowance the amount will be all told Rs. 3 lakhs."

The third witness examined was Henry M. Hard, the Production Manager, who also spoke about the necessity of replacement of machines and the high prices

thereof. The fourth witness was William Henry Smith, Commercial Printing Manager. He wanted to establish the separate identity of the Commercial Printing Department and I shall refer to what is said later on. The last witness examined on behalf of the employer was Basudev Ray, the Chief Personnel Officer. According to him the recommendations of the Wage Board on wage structures and on groupings were both incorrect. In course of his examination-in-chief he said that the wages prescribed for presses of newspaper establishment did not compare with those of other printing establishments including the Government printing presses. I shall have to refer to the evidence of this witness further in appropriate context. The witnesses examined on behalf of the workmen will be dealt with later on.

49. I need at this stage dispose of a short point, namely, whether the employees in the Job Department work in the Newspaper establishment of the Statesman Limited. I have already hereinbefore quoted the definitions of "newspaper establishment" and "gross revenue" from the Report of the Wage Board. Now, a "newspaper establishment" is an establishment including a printing press, under the control of any body or persons for the production or publication of one or more newspapers or for conducting any News-agency or Syndicate.

50. So far as "gross revenue" is concerned, the definition is to the effect that in case of newspapers gross revenue means the entire revenue earned by the establishment less commission to the extent allowable by the Income Tax authorities. In the case of a group (i.e. a newspaper establishment publishing two or more newspapers), the entire revenue of the unit is to be calculated in the following manner, namely, the circulation and advertisement revenue of each unit to be separated and the remaining revenue is to be apportioned to each unit in proportion to its circulation and advertisement revenue. To the definition aid aoli:a..1232 323 23 23 23 23 89 890 7890 7234 7890 7890 12345 783 78500890 there is a proviso, on which much reliance was placed by the employers, which I set out below:

"Provided that in a newspaper establishment in regard to the activity of other departments, which have nothing to do with the income and expenditure of the newspaper, including the depreciation on the machinery employed by the newspaper establishment, the net income of those of other departments is to be excluded from the income of the newspaper."

50(a). Now admittedly there is a department in the Statesman Ltd. known as the Job Department or the Job printing department. That department admitted y prints certain newspapers and also prints stationery goods for newspapers like the Statesman and also does outside work. The income from this department was sought to be put within the mischief of the proviso and workers were sought to be deprived of the benefits of the recommendations of the Wage Board. S. K. Banerjee, an Accountant of the Statesman Limited, deposed in course of cross-examination:—

"We publish a paper known as Junior Statesman. That is a Weekly newspaper. Uptil now Junior Statesman is not yielding any profit. Junior Statesman is printed in Job Printing Department, which is not a part of the newspaper establishment. In the profit and loss account filed on behalf of the Statesman Limited Gross revenue includes revenue from all departments including Job printing department and not necessarily from the newspaper department only."

He further stated in course of cross-examination:—

"Junior Statesman is a separate publication by the Statesman Limited. The loss in publication of the Junior Statesman is on revenue account. The investment made for publication of Junior Statesman is an investment of capital by the Statesman Limited. Mr. Desmond Doig is the Assistant Editor of the Statesman. He also looks after the Junior Statesman. The editor of the Statesman is also the editor of the Junior Statesman. Mr. Desmond Doig editorially looks after the Junior Statesman."

The next witness, who deposed about the Job Department, was William Henry Smith, Commercial Printing Manager. He does not use the expression Job Department. He uses a much more nostalgic or much more dignified description, namely, Commercial Printing Department. In his examination-in-chief he said:

"Commercial Printing Department is a department in which printing of non-newspaper items are done."** In my department job printing, including folders, leaflets, books and other things, is done. The production of the Statesman Newspaper is in no way dependant on my department."

In course of cross-examination, however, he stated:—

"I am the publisher and printer of Statesman Weekly... Junior Statesman and Statesman Weekly are both printed in the Job Section. The Statesman Limited also publishes Statesman (Telegram Extra service). This is also printed in the job section. Some of the commercial printing for the Statesman are printed in the job section for example, letter heads, advertisement rates cards. The job section has a separate accounts department which deals with billing, receiving money and also deals with customers."

Later on, in course of cross-examination, he stated:—

"The department of which I am the Chief is a separate entity known as Commercial Printing Department. It is not a part of the Statesman newspaper establishment. I do not know whether there is a combined account for the Job Section and rest of the newspaper section. I do not know whether income from commercial printing department is an income from sale of newspaper..."

In course of his re-examination, he said:—

"Printing of stationery and commercial articles are done in the Commercial Printing Section."

In course of his cross-examination after re-examination, he said:—

"I maintain in Commercial Printing Department a bill register, cash book, Sales tax register, register of payment. These are most important books that I maintain in my department. Obviously my accountant maintains separate general ledger for my department."

Later, in course of his cross-examination, he said:—

"Voucher book is the cash book in my department. This book does not have any column for receipt of cash. To a printer the registers which are produced are ledgers. I do not know what is a ledger for an accountant. I do not know whether the accountant maintains any other book for the job department."

In support of his evidence, he referred to certain pieces of documentary evidence, namely, Ext. 43, Ext. 44, Ext. 45, Ext. 45(a) to Ext. 45(h) and Ext. 46. Now, Ext. 43 is an interdepartmental order book for 1967-68, showing, *inter alia*, description of work done departmentwise and the value of the work done. Ext. 44 is an inter-departmental bill register for the year 1968, in which, *inter alia*, cost and profit are shown separately; Ext. 45 is outside bill register, which does not show profit separately. Ext. 45(a) is outside order book, which does not show value of work done. Ext. 45(b) is Retrench book showing deductions made on bills for outside parties; Ext. 45(c) is Taxable register maintained for Sales Tax purposes, which does not include inter-department work. Ext. 45(d) is non-taxable register for outside parties. Ext. 45(e) is a voucher book. Ext. 45(f) is a Central Sales Tax register. No tax is paid on inter-departmental work. Ext. 45(g) is goods received book showing particulars of goods received in the department. Ext. 45(h) is outside bill register. Ext. 46 is a specimen Cash receipt printed by the department for the Statesman Limited. In my opinion, the pieces of documentary evidence produced do not show that the job department maintains full-fledged commercial account books, in the form of Cash Book, Ledger and Journal. The books maintained are departmental books. The work done for the Statesman Limited is never paid but only adjusted in books.

51. From the evidence it appears beyond doubt that the job department does a two-fold business. It prints certain newspapers, namely Junior Statesman, The Statesman Weekly, Overseas Statesman and the Statesman (Telegram Extra Service). It also does printing of certain stationery requisites for the Statesman itself. It also does job work for outsiders, including the printing of a magazine known as Capital (in the year 1965). Thus, there is the dominant characteristic that it is an establishment which produces more than one newspapers. It may also do other work but that does not take it out of the category of newspaper establishment. It will certainly be a bad day for newspaper workers, when merely by taking up certain non-newspaper printing works for outsiders a newspaper establishment may become a non-newspaper establishment. I am unable to uphold such a contention. It was argued that under the proviso to the definition of 'gross revenue', in a newspaper establishment net income from other departments, which has nothing to do with the income and expenditure from newspaper, is to be

excluded from the income of newspaper. That may be so. But that will not make the workers non-workers in a newspaper establishment. There is no evidence before me as to what is the income derived by the job department for work which has nothing to do with income and expenditure connected with newspapers. I am prepared to assume that an uncertain figure may, if the proviso be attracted, be kept back in calculating the gross revenue; but that figure, in the absence of evidence, cannot be held to be very considerable for the Statesman Limited. I, therefore, do not find any reason to exclude the job department from the operation of the recommendations of the Wage Board.

52. It was further contended before me that unlike reference with respect to the Times of India, there was no reference before me as to whether the workmen of the job department were covered by the recommendations of the Wage Board. That may be so. But the second point in the Schedule, namely, whether any category of non-journalists employees in the newspaper establishment mentioned in the annexure stand excluded from the recommendations of the Wage Board covers this point.

53. It was also contended before me, relying on a passage from the Report of the Working Journalists Wage Committee (Ex. 85), that the income from the job department is not to be included in the gross revenue. That passage is paragraph 35 at page 18 and reads:—

“35. When defining gross revenue, we have included only the circulation revenue and the advertisement revenue. This we have done because we do not consider it equitable that revenues received from other sources like job work, type foundry, safe deposit vaults, etc., which are extraneous to the newspaper business as such, should be taken into account for the purpose of determining the class of the paper. Moreover, we have found that the exclusion of such sources of revenue has not affected the classification of a large majority of the papers we have examined.”

The recommendations of the Wage Committee as quoted above, however, did not appeal to the Wage Board for Working Journalists. In paragraph 3, page 8, the Board observed:—

“Gross revenue of a newspaper was defined by the Wage Committee as that revenue which is the total of its circulation revenue and advertisement revenue and that of a newsagency is the total of its subscription revenue. The reason given by the Wage Committee is that it did not consider it equitable that revenue receipt from other sources like job work, type foundry, safe deposit vaults, etc., which are extraneous to newspaper business as such, should be taken into account for the purpose of determining the class of the paper. The committee also states that the exclusion of such sources of revenue has not affected the classification of large majority of papers examined by them.... *The Board is unable to agree with this view.*” (Underlined by me for emphasis).

Considering the passages, on which reliance was placed, I do not think that workers in job department should be excluded from the benefits of the Wage Board. I have already observed that the job department publishes several newspaper and does part of the stationery requirement of the Statesman itself. It is not merely a job department but a job-cum-newspaper establishment and I do not see how its euphemistic partial description as job department can eclipse its dominant but also partial description as a newspaper establishment. The job department has been built up with investment made by the Statesman Limited. There is no reason to exclude the revenue from the gross revenue in the case of Statesman Limited. Therefore, so far as the Statesman is concerned, I am of the opinion that the workers of the job department are entitled to the benefits of the recommendations of the Wage Board.

54. So far as Process department is concerned, S. K. Banerjee, the accountant of the Statesman Limited, admitted in course of his cross examination:—

“Large number of blocks in printing Junior Statesman are manufactured by the Process department which is a separate unit rendering service both to the newspaper department and outside department. Large number of Statesman blocks are also manufactured in this Process department.”

So the Process department is a department which does a good many things for the production and publication of newspaper, namely supply of blocks. There is no

equity or reason behind claim for excluding the department from the category of newspaper establishment, on the fortuitous ground that the department also does some block works for outside parties. Thus, in my opinion, *the workmen of the job department and the process department are both entitled to the benefits of the recommendations of the Wage Board.*

55. Having thus cleared the ground about which of the employees of the Statesman Limited are entitled to the benefits of the recommendations of the Wage Board, I now turn to examine the main part of the argument, namely the objection relating to the wage scales.

56. At page 21 of the Report of the Wage Board for non-journalist employees appears the following chart:—

Sr. No.]	Name of the Establishment	Average net profit per year for 1963-64 and 1965 (Rs. in lakhs)	6% return on the paid up or subscribed capital (Rs. in lakhs)	Financial burden (approximate) on account of implementation of the final proposals of the Wage Board for Journalists and non-Journalists (Yearly)	
				Arrears Rs.	Recurring burden Rs.
2	Statesman Ltd., Calcutta.	31.98	3.60	7,53,840	15,07,680

Mr. S. Banerjee for the Statesman Limited argued that the chart was erroneous. According to him the figure under column 'Recurring burden' should be Rs. 18,02,880 and not Rs. 15,07,680 as found by the Wage Board. In making the above submission, he relied upon Ext. 13, a chart prepared by accountant S. K. Banerjee in which it was stated that the total number of non-journalists employees in the Statesman and the Sunday Statesman was 1840. Of them, 3 were in managerial service, 478 were in the administrative service and 1359 were factory employees. The chart further showed that the total wage bill for January 1966 amounted to Rs. 5,57,500 and the total wage bill for January 1967 after implementation of the recommendations would be Rs. 6,82,900, the difference being an additional sum of Rs. 1,25,400. If thereto be added the Provident Fund contribution and Employees State Insurance contribution, the total monthly burden, as a result of the Wage Board recommendation would be Rs. 1,36,750. Not content with what he could work out on Ex. 13, he relied upon Ex. 14, which I set out below:—

Statement of annual financial burden of Rs. 18 Lakhs estimated in 1967

	Rs.
Total estimated Wage Bills for January 1966 as per the Recommendations of the Wage Board for Non-Journalist workmen	6,82,900
Total actual Wage Bill for January, 1966 for non-journalist workmen, under the Company's Scheme	5,57,500
Additional monthly payment under the Recommendations	1,25,400
Estimated monthly burden due to increase in Wage Bill, as above:	
Provident fund Contribution	}
E.S.I. Contribution	
Over-time Payments	
Special December Payment	
Gratuities, etc.	
	24,600
	1,50,000

This monthly sum multiplied by 12 would work out at about Rs. 18 lakhs. Whether it would be Rs. 18,02,880 exactly, I am not sure. Assuming for the sake of argument (and I am merely doing so far the sake of argument at the present stage) that the recurring burden would be annually about Rs. 18 lakhs, still then the average net profit of Rs. 31,98,000 would accommodate the increased burden. Mr.

Banerjee next observed that this was not all. In paragraph 4.27 the Wage Board observed:—

"The Board recommends that the fixation of conveyance, entertainment, travelling, night shift etc., should be left to collective bargaining between the non-Journalists and the newspaper establishments concerned."

Mr. Banerjee submitted that this would result in an uncertain addition of several lakhs of rupees to the recurring burden. He further submitted that the return on paid up or subscribed capital at 6 per cent was meagre and inadequate because large dividends had been declared in the past. I shall further consider the cumulative effect of these and other reasons urged by Mr. Banerjee and other Counsel when making my award.

57. I consider it necessary to set out at this stage portions of the Report of the Directors for the years ended 31st December 1963, 31st December 1964, 31st December 1965, 31st December, 1966 and 31st December 1967, [Exhibits 15 to 15 (d)], because they give a picture of the financial solvency of the Statesman Limited, which need be considered:—

(a) Year ended 31st December 1963:

The Accounts show a Profit, after charging all expenses, of		Rs. 30,00,468
of which Taxation provision, including Rs. 1,20,000 for Surtax, requires		Rs. 17,70,000
		<hr/> 12,30,468
The balance brought forward from last year		98,985
		<hr/> 13,29,453
making a total available for appropriation of		
The Directors have transferred to:		
Development Rebate Reserve	2,70,000	
General Reserve	1,50,000	
		<hr/> 4,20,000
		9,09,453
An interim Dividend of Rs. 5 per share was declared on 27th May, 1963	3,00,000	
and the Directors now recommend that a Final Dividend Rs. 10 per share be paid	6,01,000	9,01,500
		<hr/> 7,953
leaving a balance to be carried forward of		

(b) Year ended 31st December 1964:

The Accounts show a Profit, after charging all expenses, of of which Taxation Provision, including Rs. 2,85,000, for Surtax requires		27,62,740
of which Taxation Provision, including Rs. 2,15,000 for Surtax requires		25,75,000
		<hr/> 2,88,740
The balance brought forward from last year/making a total available for appropriation of		7,953
		<hr/> 10,96,693
The Directors have transferred to Development Rebate Reserve General Reserve	3,25,000 1,50,000	1,75,000
		<hr/> Rs. 9,21,693
An Interim Dividend of Rs. 5 per Share was declared on 6th November, 1964/and the Directors now recommend that a Final Dividend of 10 per Share be paid	3,00,500 6,01,000	9,01,500
		<hr/> 20,193
leaving a balance to be carried forward of		

(c) Year ended 31st December 1965:

The Accounts show a Profit, after charging all expenses, and after a transfer of Rs. 65,000 to Development Rebate Reserve, of	Rs. 28,67,107
of which Taxation Provision, including Rs. 48,000 for Surtax, requires	Rs. 19,93,000
	<hr/> 8,74,107
The balance brought forward from last year was	20,19,3
	<hr/> 8,94,300
The Directors have transferred to General Reserve	1,25,000
	<hr/> 7,69,300
and the Directors now recommend that a Dividend of Rs. 12·50 a Share be paid	7,51,250
	<hr/> Rs. 18,050
leaving a balance to be carried forward of	<hr/>

(d) Year ended 31st December 1966:

The Accounts show a Profit, after charging all expenses, and after a transfer Rs. 50,000 to Development Rebate Reserve, of	Rs. 33,15,508
of which Taxation Provision, including Rs. 1,17,000 for Surtax, requires	23,92,000
	<hr/> 9,23,508
The balance brought forward from last year was	18,050
	<hr/> 9,41,558
Conversion of the Company's U.K. Bank Balances after devaluation resulted in a credit of	87,416
	<hr/> 10,28,974
The Directors have credited back the Provision for Retirement Benefits amounting to	11,38,729
	<hr/> 21,67,703
making a total available for appropriation of	13,01,000
The Directors have transferred to General Reserve	<hr/> 8,66,703
and the Directors now recommend that a Dividend of Rs. 12·50 a share be paid leaving a balance to carried forward of	8,26,376
	<hr/> Rs. 40,328

(e) Year ended 31st December 1967:

The Accounts show a Profit, after charging all expenses and after a transfer of Rs. 45,000 to Development Reserve, of	Rs. 36,14,103
of which Taxation Provision, including Rs. 1,98,000 for Surtax requires	23,43,000
	<hr/> 12,71,103
The balance brought forward from last year was	40,328
	<hr/> 13,11,431
Tax overprovided in previous years, and now written back, is	3,60,000
	<hr/> 16,71,431
making a total available for appropriation of	6,72,200
The Directors have transferred to General Reserve	<hr/> 9,99,231
and the Directors now recommend that a Dividend of Rs. 12·50 per share be paid	9,91,650
	<hr/> 7,581
leaving a balance to be carried forward of	<hr/>

It further appears from Schedule 6 annexed to the account of each year:

(a) Year ended 31st December, 1963 :

Reserves and Surplus:

General Reserve:

Balance as at 31st December	Rs.	Rs.
Balance as at 31st December, 1962	17,25,000	
Add: Transfer from Profit and Loss Account	1,50,000	18,75,000

Development Rebate Reserve:

Balance as at 31st December 1962	1,70,000	
Add: Transfer from Profit and Loss Account	2,70,000	4,40,000
Profit and Loss Account		7,953
		<u>23,22,953</u>

(b) Year ended 31st December 1964:

Reserve and Surplus:

General Reserve:

Balance as at 31st December, 1963	18,75,000	
Add: Transfer from Profit and Loss Account	1,50,000	20,25,000

Development Rebate Reserve:

Balance as at 31st December, 1963	4,40,000	
Add: Transfer from Profit and Loss Account	25,000	4,65,000

Profit and Loss Account		20,193
		<u>25,10,193</u>

(c) Year ended 31st December 1965:

Reserve and Surplus

General Reserve:

Balance as at 31st December, 1964	20,25,000	
Add: Transfer from Profit and Loss Account	1,25,000	21,50,000

Development Rebate Reserve:

Balance as at 31st December, 1964	4,65,000	
Add: Transfer from Profit and Loss Account	65,000	5,30,000

Profit and Loss Account		18,050
		<u>26,98,050</u>

(d) Year ended 31st December, 1966:

Reserves and Surplus:

General Reserve

Balance as at 31st December, 1965	21,50,000	
Add: Transfer from Profit and Loss Account	13,01,000	

	34,51,000	
Less: Amount Capitalised by issue of Bonus Shares	6,01,000	28,50,000

Development Rebate Reserve:

Balance as at 31st December, 1965	5,30,000	
Add: Transfer from Profit & Loss Account	50,000	5,80,000

Profit and Loss Account		40,328
		<u>34,70,328</u>

(e) Year ended 31st December, 1967. :

Reserves and Surplus.

General Reserve:

Balance as at 31st December, 1966	28,50,000	
Add: Transfer from Profit and Loss Account	6,72,200	
	<hr/>	
	35,22,200	
Less: Amount Capitalised by issue of Bonus Shares	13,22,200	22,00,000
	<hr/>	
Development Rebate Reserve:		
Balance as at 31st December, 1966	5,80,000	
Add: Transfer from Profit and Loss Account	45,000	6,25,000
	<hr/>	
Profit and Loss Account		7,581
		<hr/>
		28,32,581

It appears from the Directors' Reports and the Schedules quoted above that the company was making substantial profits, paying good dividends and building up substantial Reserves including reserves for development. Nevertheless, Mr. Banerjee argued that the prosperity was swallowed up by rising costs, taxation and rehabilitation requirements.

58. Mr. Banerjee argued that prices were increasing, salaries were increasing, the prices of news print was increasing. Only profit was becoming less and less. It would not, according to him, be prudent to add further burden on the company. Mr. Banerjee further argued that, (1) wage scales were fixed in disregard of the principles laid down by the Supreme Court, particularly in disregard of the capacity of the industry to pay in industry-cum-region basis after taking a fair cross-section of the industry into consideration, (2) the rates of dearness allowance recommended were also irrational and beyond the capacity of the industry, (3) in fixing the wage scales the Wage Board fixed unduly high rates adversely affecting the industry and tending to dry up the national income at the source, (4) the classification of newspapers into different classes was irrationally made, (5) the groupings of workmen were also made irrationally and without any factual basis and (6) fitment in the wage scale in the initial year was only taken into consideration but not the weight of further increases in subsequent years. I indicate the broad heads of arguments advanced by Mr. Banerjee but do not go into their details. That I shall do when making my award.

59. Before I leave the arguments of Mr. Banerjee, I need exhaust certain memoranda of settlement and award very strongly relied upon by Mr. Banerjee. I shall deal with the memorandum of settlement in chronological order. The first one, Ext. 38(a) is between the Statesman Private Limited and their Clerical Staff Union, dated March 12, 1958, and deals with dearness allowance, the material portion from which is set out below:—

"Scheme.—(1) For every 10 pt. rise or fall in the Cost of Living Index, averaged over a period of six months, there will be a rise or fall of 2½ per cent to the level of Dearness Allowance prevailing as at the date of this Agreement e.g. for a rise of 10 points in the Cost of Living Index, a man drawing Rs. 150 Dearness Allowance would be entitled to a further Rs. 3.75. The minimum rise or fall in the rate of Dearness Allowance for every 10 pt. rise or fall in the Cost of living Index would be Rs. 2.50 for any member of the staff drawing Dearness Allowance.

- (2) The above adjustments to Dearness Allowance would be rounded off to the nearest 50 naye paise.
- (3) The revisions of Dearness Allowance, where applicable, would take effect in the months of January and July, but in order to make this possible, the periods under review would be December/May and June/November
- (4) The first period of review would be the period June/November 1957 which reveals an increase over our datum line of 21.25 points in the Cost of Living. This would entitle the staff to an increase as mentioned above of 5 per cent as from January 1, 1958.

- (5) This scheme would operate within the limits of 49 pt. rise or fall from the datum line. Any rise or fall exceeding this amount would necessitate further consideration."

The second one is also between Statesman Limited and their Clerical Staff Union. Ext. 38(b), dated July 15, 1961, deals with *inter-alia* with revision of grades of dearness allowance, the material portions from which are set out below:

"1. Revision of Grades

- (a) There will be no automatic promotion of employees from 'C' to 'B' grade.
(b) The Management will grant, as a generous gesture, an increase to all Clerical Grades in the matter as indicated here-under:

1. Clerks 'A' Grade	170—10 × 11—280
'B' Grade	120—7 × 5—113
'C' Grade	80—4 × 2—88—5 × 5—113—7 × 5—148—10 × 3—178.
2. Stenographers:	120—7 × 5—155—10 × 12—275—5—280.
3. Typists:	80—4 × 2—88—5 × 5—113—7 × 5—148—10 × 4—188—6—194.
4. Artists 'A' Grade	170—10 × 11—280
'B' Grade	120—7 × 5—155—10 × 5—205
'C' Grade	80—4 × 2—88—5 × 5—113—7 × 5—148—10 × 5—179.
5. Collecting Sircars:	50—3 × 4—62—4 × 4—78—2—80.

2. Dearness Allowance:

- (a) It is agreed that the present scheme of basic Dearness Allowance will continue.
(b) On compassionate grounds the Company agree to modify the present scheme of Enhanced Dearness Allowance introduced in 1958 under an Agreement signed by the Company and The Statesman Clerical Staff Union on March 12, 1958. This modification is as hereunder:
(i) It is agreed to lower by 10 points the datum line from 384.25 points to 374.25 points. Clause 5(5) of the above Agreement of 1958 limiting the operation of the scheme will be deleted."

The third one is a memorandum of settlement between the Statesman Limited and the workmen represented by Statesman Employees' Union (Ext. 38), dated December 29, 1961, and deals *inter-alia*, with revision of grades and dearness allowance, the material portion wherefrom is set out below:

2. Dearness Allowance:

- (a) It is agreed that the present scheme of basic Dearness Allowance will continue.
(b) On compassionate grounds the Company agreed to modify the present scheme of Enhanced Dearness Allowance introduced in 1958. This modification is as hereunder:—
(i) It is agreed to lower by 10 points the Datum Line from 384.25 points to 374.25 points. Clause 5(5) of the above scheme of 1958 limiting its operation will be deleted."

The fourth one is a memorandum of settlement between the Statesman Limited and the Statesman Employees' Union, Ex. 38(c) dated January 23, 1962, and deals, *inter-alia*, with revision of grades and dearness allowance, the material portion wherefrom is set out below:

"5(c). The following Grades will be increased in the manner as indicated hereunder:—

1. Clerks 'A' Grade	170—10 × 11—280.
'B' Grade	120—7 × 5—155—10 × 5—205.
'C' Grade	80—4 × 2—88—5 × 5—113—7 × 5—148—10 × 3—178.

2. Stenographers:	120—7×5—155—10×12—275—5—280.
3. Typists	80—4×2—88—5×5—113—7×5—148— 10×4—188—6—194.
4. Collecting Sircars-	50—5×4—62—4×4—78—2—80.
5. Artists 'A' Grade	170—10×11—280.
'B' Grade	120—7×5—155—10×5—205.
'C' Grade	80×4×2—88—5×5—113—7×5—148— 10×3—178.

2. Dearness Allowance:

- (a) It is agreed that the present scheme of basic Dearness Allowance will continue.
- (b) On compassionate grounds the Company agrees to modify the present scheme of Enhanced Dearness Allowance introduced in 1958. This modification is as hereunder:
- (i) It is agreed to lower by 10 points the Datum line from 384.25 points to 374.25 points. Clause 5(5) of the above scheme of 1958 limiting its operation will be deleted."

The fifth one is also between the Statesman Limited and their Employees' Union, Ext. 38(d), dated April 16, 1964, and provides for figures of interim relief over and above the earlier settlement dated January 23, 1962. The sixth is a settlement between the Statesman Limited and the Clerical Staff Union of the company (Ext. 38(c) dated April 21, 1964, grants to the clerical employees certain relief over and above the settlement dated July 15, 1961. The seventh one is a settlement between the Statesman Limited and workmen represented by the Employees' Union [Ext. 38(f)] dated May 29, 1964 and also provides for grant of certain interim reliefs to the workmen over and above the earlier settlement dated December 29, 1961. The eighth settlement is between the Statesman Limited and their workmen represented by the Employees' Union [Ext. 38(g)] dated May 1, 1965 and deals with labour agitation and penalties imposed on the labourers not connected with wages or dearness allowance. The last settlement is between Statesman Limited and their workmen represented by the Employees' Union [Ext. 38(h)] dated May 18, 1965 which also however, does not deal with wages or dearness allowance.

60. It does not appear from the above memoranda of settlement that after 1962, excepting for interim relief, any serious attempt was made to add to the wages and dearness allowance. In the meantime the cost of living has increased and it is time now to examine the wage scheme and dearness allowance scheme afresh. I do not therefore, draw any inspiration from Ext. 38 to Ext. 38(h).

61. Relying on certain observation of the Wage Board in paragraph 3.14, Mr. Banerjee argued that wage scale of factory staff in newspaper establishments can be compared with wage scales in Government Printing presses. He, therefore, invited my attention to an award (Ext. 30) by Sri A. Das Gupta between certain Printing Presses in Calcutta and Howrah and their employees (published in Calcutta Gazette dated May 20, 1948) and submitted that the pay and dearness allowance as fixed at that time were lower than the pay and allowance fixed by the Wage Board. He also invited my attention to another award by the same learned Judge (Ext. 30(a) between Printing Presses who are members of the Bengal Association of Master Printers and allied industries and Printing Presses who are members of the Calcutta Printing Press Owners Association and their employees (published in Calcutta Gazette on March 1, 1952) and made the same argument. I wonder how these historical documents of which one is now more than 21 years old and the other 18 years old can in any way help Mr. Banerjee. Further, none of the presses are Government presses. I therefore ignore those arguments.

62. Lastly, Mr. Banerjee invited my attention to an award between Statesman Limited and their employees represented by the Employees' Union (Ext. 37) published in Calcutta Gazette dated August 21, 1952 and a judgment of the Appellate Tribunal (Ext. 37(a) dismissing an appeal against the award, Ex. 37, and submitted that grades and scales of pay and dearness allowances were lower than what the Wage Board has fixed now. I wonder how I can proceed seventeen years after with the measure of wages fixed in 1952. Therefore, I do not make much of those two awards. For the same reasons, I reject Mr. Banerjee's argument in so far as the award between the Statesman Private Limited and their workmen

on revision of grades, etc. published in Calcutta Gazette dated August 6, 1959, Ext. 37(b). Also for the same reason, I get no inspiration in the Staff Record of dearness allowance in the Statesman Limited, Exts. 39 and 39(a), for the years 1949 to 1953 and for the years 1942 to 1948 respectively. These documents are only of historical interest and cannot be utilised now for any purpose whatsoever excepting for the purpose or showing that the good old days of cheap labour have gone for ever.

63. I now propose to examine some of the arguments advanced on behalf of the workmen. Mr. D. L. Sen Gupta and Mr. Satyen Banerjee, Advocates, represented the Clerical Staff Union. Mr. A. P. Chatterjee, Advocate, represented the Statesman Employees' Union. Mr. Sen Gupta very strongly contended that the Clerical Staff should be granted increment according to the agreement between the Clerical Staff Union and the management from which the employers were said to have subsequently backed out. The agreement is Annexure C to the written statement of the Statesman Clerical Staff Union. I find, however, from the Annexure C that the same is not an agreement but merely an offer and is headed "Scheme of the Company offered in modification of the Wage Board Decision under the heading Salient Features". But from paragraph 12 of the written statement of the Clerical Staff Union I find that the offer was accepted subject to suggestions for modifications and therefrom I quote hereinbelow the following passage:

"The revised scales of pay as prepared on April 12, 1968 and offered by the company in a joint meeting with this union on 21st and 22nd April 1968 is shown in a chart enclosed herewith and marked Annexure 'C' while the documents of the company entitled 'Salient Feature' is enclosed and marked Annexure 'C-1'. This union accepted the proposals offered by the company in the interest of peace and harmony, but expressed its views suggesting certain modifications."

An acceptance in which the minds are not *ad idem* is little of acceptance. I find from the evidence or witness No. 6 for the workmen Sailen Banerjee, Honorary Secretary of the Clerical Staff Union:

"There was a settlement arrived at at the negotiation but the employer company did not sign the settlement."

This offer is said to have been verbally withdrawn. I do not find sufficient evidence before me about a complete agreement on this point. If, however, that was not implemented by the management they cannot be blamed therefor.

64. On the question of fitment the evidence of witness Sailendra Banerjee is hereinbelow quoted:

"I agree with the view that the clerical members of the staff were not given adequate attention by the Wage Board. Mr. P. T. Dastoor is the Secretary of the Statesman Ltd. Bhawani Pal and Surendra Mohan Mukherjee are respectively serving in the C grade for the last 35 and 32 years. They have been placed in group VI under the Wage Board recommendation. Rabindra Bhusan Chatterjee of Circulation Accounts and Kashi Nath Sen of Subscription department have been serving for the last 32 and 31 years respectively in the B grade. They have been fitted in Group VI. Few direct recruitments are made in A grade but such recruitments are made in the B grade. For people working in A, B & C grades generally there is no difference in the nature of work. In grade IV there are A, B & C grades staff who perform similar type of work."

The grievance on fitment made by this witness is more or less opinionative and I cannot make much of the reasons put forward by him. There is no evidence before me that people who have been left in the same category without promotion are fit to be placed in a higher category at all and therefore without more I cannot make use of the evidence of this witness that the fitment recommendations by the Wage Board are unworthy of acceptance. No other argument was advanced on behalf of the Clerical Staff Union.

65. I turn next to the arguments advanced by the Statesman Employees Union. Before I do that, I have to glance through the evidence adduced on behalf of the Employees' Union. There were five witnesses examined on behalf of the Employees' Union. The first witness was Mani Bhattacharjee, a C grade clerk of the Job Department of the Statesman. This witness deposed as to the integral

unity of the Job Department with the newspaper establishment. I have, hereinbefore, in paragraph 53, given my own reasons on this point in favour of the workmen and I need not deal with the evidence given by this witness on the point.

66. The second witness examined by the workmen was Kali Chandra Kumar Tripathi, a Peon Inspector. He gave evidence on the point whether 53 workmen engaged in the work of making packages, binding and labelling the packages were part of the permanent employees of the Statesman Limited or merely contract labourers. He said in his evidence:

"There are about 58 workmen who are engaged in the work of making packages, binding and in labelling the packages. There was an order made by the company for recruitment of casual labour. Those workmen were recruited by the company. I maintain an attendance register of those workmen. I write up the attendance register. There are two other inspectors who also write. The Inspectors advise these labourers what to do. (. . . The vouchers for monthly payment are prepared, passed, and come back to the circulation department in the name of Inspector. The Inspector receives the money and distributes the money to these labourers in the presence of a clerk of the circulation department. The workers give receipts for payments made. . . . (Cross examination) . . . These 58 workmen do not get any bonus like other workmen. These 58 workmen do not even get Special payment for December. . . . Apart from the 58 workmen referred to by me, there are 65 peons who work in the Circulation Department. I do not know whether the 65 persons mentioned by me had to apply for job. These sixty five persons get bonus. They also get their salary from the company. When somebody wants to go on leave an Inspector reports to the Circulation Department that so and so wants to go on leave, and that a substitute is necessary in his place. The department verbally may give approval to the proposals. After the approval is obtained the Inspector permits the man to go on leave and recruits a substitute."

The evidence that I have quoted does not go to show that the 58 men engaged in packing, binding and labelling work are part of the staff of the company. The Inspector receives money for them and pays them. He gives them leave and recruits substitutes and they are all treated on different level in the matter of payment of bonus and special payment. The evidence goes to show that the Inspector is a contractor in respect of such recruitment and the 58 persons are merely contract labourers.

67. The third witness examined on behalf of workman is one K. P. Balam, Advertisement Clerk, now at New Delhi Office. He gave evidence about anomalies in categorisation and fitment and the relevant portion from his evidence is set out below:

"In my opinion, there is some anomaly in the fitment of clerks. For example, a salary clerk prepares salary sheets of complicated nature therein indicating salary, dearness allowance, other allowances, income tax deductions, etc.; his work is not only responsible but requires skill. Still then he is in group VI and not in group V. Then again, Asstt. cashier does the work of some responsibility and skill as the cashier does, still then he has been placed in group VI, two grade lower than Cashier. Also a clerk in charge of booking, who is also known as the scheduling clerk, has to remember which advertisement is to be published on which page and where such advertisement should be published and to give direction to printing section accordingly. It is no doubt true that he maintains a diary still then he has to remember a lot more. Typists in A, B and C grades all do similar type of work. Still then at the time of implementation of the difference of 75 per cent under the Wage Board recommendations, one A grade typist was put in Group V and others in Group VI. The B grade typists were also placed in group VI. Teleprinter operators have been placed in Company's grade IV which is an officer's grade. So far as skill and work are concerned, the duties of a typist and a Teleprinter operator are the same. All accounts clerks in the Statesman Ltd., have not been placed in group V for fitment. What I mean to say is this, only A grade accounts clerks have been placed in group V. Account clerks in grades B and C,

although doing similar work, have not been placed in group V. There are ledger-keepers and record-keepers in the Statesman Ltd. They have been placed in group VI. Ledger clerks and Record keepers work in the Accounts Department."

In my opinion, his evidence is opinionative evidence and does not go to establishment either the unreasonableness of categorisation or fitment as recommended by the Wage Board.

68. The Fourth witness examined on behalf of the workmen is Ananda Gopal Banerjee, a Professional Chartered Accountant, examined as an Expert in Accounts by the workmen. He prepared Ext. D to which I shall refer later on, giving an analysis of the balance sheets for the years 1963 to 1967.

69. The Fifth witness examined on behalf of the workmen was Joyanta Das Gupta, a composing clerk who is the Joint Secretary of the Statesman Employees Union. He proved chart Ext. V showing the financial burden of the company on account of the implementation of 75 per cent of the Wage Board recommendations. He further proved another chart marked Ext. W showing the proper way of fitment and said in his evidence:

"I myself prepared this chart. In the third column of the chart I indicated the company's placement in the Wage Board group and in the last column I indicated the suggested Wage Board group by the union."

The suggestions as in Ext. W, as he himself said, were based on the following logic:

"In making the suggestion we have examined the Wage Board grouping compared them to the nature of work and the skill employed by the workmen in the company and then made the suggestion."

So far as categorisation is concerned, he condemned the recommendation on the following ground:

"Gradation of clerks to A, B and C is not really based on job basis. A 'C' grade clerk also does work which may be entrusted to an 'A' grade clerk. The Wage Board grouping of clerks are on job basis. (Shown paragraph 97 of the written statement by the Employees' Union). The scales suggested for artists is based on the scale of artists who belong to Journalists category. The artists do not carry on clerical job. Artists in the Statesman are classed on non-journalist class of workmen."

70. Mr. A. P. Chatterjee, Advocate for the Employees Union contended, in the first place, that 'other allowances' such as, conveyance, entertainment, travelling and night shift allowance, which were left to collective bargaining between the non-journalists and the newspaper establishment should have been covered by some sort of Report and not left to negotiations. I do not find much force in this argument. The resolution which set up the Wage Board did not specifically contemplate fixation of other allowances. Then again, after the main demands are fixed time will arrive for a reasonable frame of mind to fix the benefits for the workmen. Therefore, I do not propose to grant any further allowance at this stage.

71. Mr. Chatterjee further argued that the Statesman had enough capacity to pay. He invited my attention to the evidence of S. K. Banerjee, Accountant of the Statesman Ltd., Wherein he stated:

"The annual burden due to the increase in wage scale of the company will be near about 85,000 for increase in basic salary and D. A."

He submitted that assuming for the sake of argument this was the position, which however he disputed, he stated the funds of the Statesman could bear the extra burden and the poor workmen should not be deprived of the fair wages in the circumstances of the case.

72. Mr. Chatterjee also argued placing reliance on Ext. G that the officers numbering 227 only consumed Rs. 40,50,043 per year, thus taking the major bite out of the poorman's bread. I am not impressed by this argument. The officers are editors, accountants and other departmental bosses, who are trained technical men. They are being paid what they command. I have no right to reduce their pay. I have to consider the right of the workmen receive fair wages and that

is what I am trying to do. But, in trying to do so, I am not entitled to make a cut in the wages drawn by the officers, which matter has not been referred to me.

73. I now take up the question of missing categories. It is admitted in paragraph 75 of the written statement filed by the Statesman Limited as follows:

"75. With regard to matter No. 2 of the Schedule to the Order of Reference, the Company encloses a list of the categories of non-journalist employees marked with the letter "E" which appear to stand excluded from the recommendations of the Wage Board with their existing rates of wages and submits that the wages, dearness allowance and gratuity available to them under the Company's Conditions of Service are quite fair and reasonable and do not call for any revision for the reasons already stated hereinbefore."

Thus, on the own admission of the Statesman Limited certain categories of non-journalists employees in the newspaper establishment stood excluded from the recommendations of the Wage Board. The categories which stood excluded are in the Composing department, Rotary and Stereo Department, Workshop, Job Department and Process Department and amongst the Canteen Peon, Subordinate and Transport staff are mentioned in detail in Annexure E to the written statement which I need not repeat. The workmen filed a list of categories excluded by the Wage Board. There is no difference between the list submitted by the Statesman Limited and Ext. W. exhibited on behalf of the employees' Union excepting as follows:

(a) Amongst workshop employees the Employees Union desire to include Turner A and B, not included in the list of the Statesman Limited.

(b) Amongst the Canteen, Peon, Subordinate and Transport Staff, the list submitted by the Statesman Limited includes Daftari A and B but the Ext. does not include Daftari.

"Workers A, B and C.—This is how the Company calls the categories of the Statesman Limited includes two categories, Supervisors A and B Grade and Workers A, B and C Grade. In Ext. W Supervisors A and B grade appears to be included but there is a note to this effect about Process Department workers:

"Workers A, B and C.—This is how the Company calls the categories of the Process department, many of whom are included in the Wage Board Groups. The Categories corresponding to A, B and C are like Colour Etcher, Line Etcher, Metal Printer, Camera Operator, Carpenter, Moulder, Proofer, Machineman, Streoman, etc."

Ext. W gives a complete list of Process Department staff as follows:

- "(i) Supervisors (A and B Grade).
- (ii) Colour Etcher.
- (iii) Photograncy.
- (iv) Engraver.
- (v) Dark Room Colour Photographer.
- (vi) Half tone Etcher.
- (vii) Camera Operator.
- (viii) Dark Room Men.
- (ix) Metal Printer.
- (x) Carpenter.
- (xi) Machine Men.
- (xii) Stereo Men.
- (xiii) Line Etcher.
- (xiv) Moulder.
- (xv) Proofer.
- (xvi) Plate Maker.
- (xvii) Learner (Helper).
- (xviii) Artists."

In the evidence there is no dispute that the list as in Ext. W under the head "Process Department" was either an incomplete or exaggerated list or that

Workers A, B and C include other categories of workmen that what was mentioned in Ext. W. I therefore accept that Ext. W is the correct list of missing categories excepting that I add thereto Daftari A and B in the Heading "Canteen Peon, Subordinate and Transport Staff" as admitted in the written statement of the Statesman Limited.

74. Having thus found which were the categories which were missing, I have now to see how to fit them in within the structure of the Wage Board recommendations. I propose to do that later on while passing my award because I have to consider the arguments on this point by the other newspaper establishments as well.

75. This finishes the examination of pleadings, evidence—both oral and documentary and the arguments advanced on behalf of the parties involved in the Statesman's reference. I shall make one award in respect of all the references later on.

VIII

The Newspaper Establishment of the Anand Bazar Patrika (Private) Ltd.

76. I now turn to the reference made in respect of Ananda Bazar Patrika Pvt. Ltd., publishing the Hindustan Standard (English daily), Ananda Bazar Patrika (Bengali daily), Ananda Bazar Patrika (Bengali bi-weekly), the Hindustan Standard (Overseas Edition).

77. In the written statement filed on behalf of the Ananda Bazar Patrika (Private) Limited, there were certain preliminary objections taken. In paragraph 2 of the written statement, it was stated:

"Although this employer in relation to the two newspapers did not oppose the formation of the Wage Board in question, set up by the Government of India, it never agreed to implement the Wage Board recommendations. According to law also the said recommendations cannot be legally enforced unless the same is either agreed and accepted by the employer or specific law (statutory provisions) is made for such purpose as contemplated under Section 37 of the Constitution. Immediately on the publication of the Wage Board recommendations the representatives of the employers made representations to the Government for not accepting the recommendations of the Wage Board clearly stating the reasons thereof."

It was further stated, in paragraph 3 of the written statement, that the Government did not pay any heed to the employers' representations but accepted the Wage Board's recommendations with some modifications and published the same. On the publication of the Wage Board's recommendations, as accepted by the Government, it was alleged, it appeared that it would be practically impossible to accept the said recommendations and it was felt that acceptance of the same would create great complications in many of its establishments. Consequently on the publication of the recommendations in question, the employers expressed their inability to implement the same. It was also alleged in paragraph 4 of the written statement that for the purpose of establishing peace and appeasing the employees the employers expressed their willingness to discuss the matter on unit basis, that is to say, on the basis of their own establishment and invited the State Labour Directorate to intervene in the matter. It was, however, soon found that although the employees were willing to negotiate unitwise, they were helpless at the intervention of the Central Organisation of the employees, namely, the All India Newspaper Employees' Federation. Since the stalemate condition could not be allowed to continue indefinitely the Labour Ministry at New Delhi issued two suggestions to the employer for acceptance, as contained in the letter from the Additional Secretary, Ministry of Labour and Employment to Sri Ashok Sarkar of Ananda Bazar Patrika Private Limited (Ext. 8). I quote below the material portion from the said letter:

"During the discussions which the Labour Minister had yesterday with the representatives of the various newspaper establishments, it was suggested that if a bipartite settlement could not be arrived at, the present dispute could be referred to adjudication on two conditions, namely: (1) the employers should agree to pay, in addition to the present emoluments, 75 per cent of the difference between the present emoluments and the emoluments to which an employee would be entitled under the wage board recommendations, and (2) that an

employee should be assured of the quantum of emoluments as determined above even after the adjudication award.***"

To this letter Mr. Sarkar, the Managing Director, sent a reply, dated September 16, 1968, Ext. 8(a), inter-alia, in the following language:

"...I agree that we will make an interim payment of 75 per cent of the differences between the present emoluments and the emoluments to which the employee would be entitled under Wage Board recommendations. It is understood that the quantum of emoluments as determined above will be maintained after adjudication.

In this respect our understanding is:

- 1 The Union will call off the strike immediately and they will not embark on any further strike and/or go slow in any other form of direct action or coercive tactics.
- 2 The acceptance of the proposal will in no way effect the full adjudication of the recommendations on their merits.
- 3 The adjudication will relate to the matters covered by the recommendations of the Wage Board for the non-journalist employees.
- 4 There will be no reference to the adjudication of the question of payment of wages for the strike period.
- 5 This will be without prejudice to any other rights and contentions of the management."

Although in letter Ext. 8(a), there was a clear admission that the interim payment will be maintained even after adjudication, in the written statement it was stated:

"From the said understanding it would be evident that the concession which the employer had agreed to by this arrangement was on a tentative basis and subject to the conditions mentioned in the said letter particularly that the acceptance of the proposal would in no way affect the full adjudication of the recommendations on their merits and that the adjudication would relate to the matters covered by the recommendations of the Wage Board for the non-journalist employees."

In paragraph 8 it was stated:

"8. Unfortunately the Issue No. 1 as mentioned in the Schedule under Order of Reference may create some confusion as to the exact matter required to be adjudicated by this Hon'ble Tribunal. It may possibly be argued that the employer is agreeable to implement the Wage Board's recommendations as accepted by the Government by a resolution dated 18th November, 1967 provided the same are not proved unfair and unreasonable; and that accordingly the dispute are now confined to the question whether the said recommendations are unfair or unreasonable and that only in the event of the same being proved to be unfair and unreasonable, the question of modifications thereof for the purpose of introducing a fair and just wage structure should be considered by the Hon'ble Tribunal."

The further preliminary objection was taken in this form:

"If, however, it is contended that according to the issues mentioned in the Order of Reference, the Hon'ble Tribunal's jurisdiction is restricted to the question whether the said recommendations of the Wage Board are unfair or unreasonable and only in case of its finding it is so, the Tribunal would have jurisdiction to consider about the modification of the said recommendations, employer would submit that a dispute regarding the fairness or unfairness or reasonableness or unreasonableness of the Wage Board's recommendation is not an Industrial Dispute, as contemplated U/S 2(k) of the Industrial Disputes Act, 1947. Such dispute is not connected with employment or nonemployment or the terms of employment or the conditions of labour as specifically mentioned in Sec. 2(k) of the Industrial Disputes Act, 1947. Consequently such a dispute cannot be legally referred to for adjudication by the Government under the provision of Industrial Disputes Act 1947 and that this Hon'ble Tribunal will derive no jurisdiction on the basis thereof."

On the question whether the recommendations of the Wage Board were fair and reasonable, it was alleged, in Part II, paragraph 1 of the written statement,

that there were 178 working journalists, 405 administrative staff, 485 factory workers and the reference related to the administrative staff and factory workers who were called non-journalists employees. The recommendation of wages, it was alleged was unfair and unreasonable inter-alia on the following grounds:

(a) That the recommendations of wages including the scales thereof were fixed in gross contravention of the well-known principles laid down by the Supreme Court in the case of *Express Newspaper Private Limited vs. the Union of India* (supra) and reiterated in many subsequent cases, namely, the capacity of the industry to pay and it was pointed out that average net profit of the employer company for the relevant years 1963, 1964 and 1965 was 6.39 lakhs whereas the approximate financial burden on account of the implementation of the Wage Board recommendations would be per year a recurring amount of Rs. 11.16 lakhs and lump payment for the arrear of Rs. 5.77 lakhs. The Wage Board appreciated this glaring unfairness and violation of the aforesaid well-settled principle but attempted to justify their recommendations, in para 3.21 of the Report, by recommending that the management of newspapers which were not in a position to bear the additional burden imposed by the new wage scales may tighten up the organisation and this may enable these papers to pay higher wages without difficulty.

(b) The capacity of the industry to pay, according to salutary principles laid down by the Supreme Court, must be considered on an industry-cum-region basis taking a fair cross-section of the industry into consideration. This principle, the Wage Board ignored.

(c) The Wage Board while making the recommendations did not take into consideration the important principles of the elasticity of demand for the product. It was alleged that the sources and scope of increasing the revenue are neither unlimited nor very much elastic. Any heavy increase in the rates of advertisement will make advertisements shy and circulation difficult because it would not be possible to procure the required quantity of newsprint.

(d) The scales of pay prescribed by the Wage Board and accepted by the Government were high and unscientific. The slabs with rate of increments fixed by the Board were also higher and the span of the period was arbitrarily reduced. This will not only put increasing recurring burden on the newspaper establishment out of proportion with the increase in efficiency but will also put employee on the awkward position of reaching the maximum of his scale long before his date of retirement. Scales of pay being long term arrangement should extend over 20 years.

(e) The Wage Board's classification of the workmen was most arbitrary and would create confusion in the matter. Since long the employer classified the workmen specially the workmen in the factory according to certain principles. The existing designations given to these workmen would indicate whether they belong either to skilled or semiskilled or unskilled group of workmen. According to the existing pattern, one designation covered some of the workmen who came under the category of either skilled or semiskilled or unskilled and the employer fixed their wages not according to their designation but according to the job that they require to perform. The Wage Board, however, without evaluating the job arbitrarily grouped the workmen for the purpose of fixing their rates of wages purely on the basis of their existing designation, with the result that some of the workmen, who are required to perform only either unskilled or semiskilled job, get the same pay which the workmen doing highly skilled job would get.

(f) Classification of clerical staff by the Wage Board into class V and class VI made a complete departure from the existing arrangement under which the clerical staff was interchangeable from one department to other. The Wage Board's recommendation would virtually affect the interchangeability and give rise to numerous disputes.

(g) The Wage Board was wrong in considering the cases of persons who did not come within the definition of workman as mentioned in Section 2(s) of Industrial Disputes Act, 1947, such as departmental manager, General Manager or Supervisors drawing more than Rs. 500/- per month. Their cases should not be considered by this Tribunal.

78. To this written statement there was a counter statement filed on behalf of the employees of the Hindustan Standard, Ananda Bazar Patrika represented

by Ananda Bazar, Hindustan Standard, Desh employees' Union. In paragraph 6 of the said written statement, it was alleged:

".....Although the said Wage Board No. II for the Journalists and the said Wage Board for non-journalist employees were constituted for the same object and purpose and with the same Chairman yet the employers have not implemented the recommendations of the said Wage Board although they have implemented the recommendations of the Wage Board No. II for the journalists. The said Union states that this action of the employers are not only illegal, arbitrary and bad but the same has been unilateral and have been taken to deprive of the employees of the fruits of the said Wage Board."

In paragraph 7 of the said written statement the workmen admitted that the recommendation of the Wage Board were just and proper but at the same breath in paragraph 8 and 9 of the written statement, they claimed higher wages in the following language:

"8. The said Union, however, states that after the recommendation of the said Wage Board and until today the employers of Hindustan Standard and Ananda Bazar Patrika have made much progress in their business and their amount of profits and turn over of business have also gone up to such an extent so as to justify the said Union to claim the grades and wages for the employees concerned as mentioned in Annexure A.

9. The said Union states further that not only the recommendations as contained in the report of the said Wage Board should be implemented after holding them to be fair and reasonable but considering the recent developments and profit of the said newspaper, this Hon'ble Tribunal should award the Wage rates for the employees in the manner as shown in Annexure A".

In paragraph 12 of the said written statement, there was a chart annexed giving a list of non-journalist employees who were omitted in the recommendations of the Wage Board and claimed their fixation somewhere in the wage structure of the Wage Board's recommendations or as claimed in annexure A to the written statement.

79. This is in short the written statement filed on behalf of the workmen. There were two rejoinders filed, one by the employer and one by the workmen. They do not contain any new facts but are merely argumentative in nature. I shall deal with the arguments contained therein in their proper context.

80. Before I leave the pleadings, I should refer to the additional written statement filed on behalf of the employers in the newspaper establishment of Ananda Bazar Patrika Private Limited. By a notification, dated March 7, 1969, all publications made by the Ananda Bazar Patrika Private Limited were included in the reference. By that time, both the parties involved in the Ananda Bazar Patrika Private Limited industrial dispute had completed their arguments. Parties did not, however, want further opportunity to file further pleadings, lead further evidence or to argue afresh, after the amendment of the order of reference. In paragraphs 1 and 2 of the additional written statement, it was stated:

"1. The amendment above is unnecessary in view of the fact that both the employer and its workmen represented by Ananda Bazar Patrika, Hindustan Standard and Desh Employees Union understood the original reference dated 17th September, 1968, to cover the dispute between the parties in respect of all the non-journalist employees employed by the employer in connection with all its publications namely Ananda Bazar Patrika (Bengali daily), Ananda Bazar Patrika (Bengali bi-weekly), Hindustan Standard (English daily), Hindustan Standard (Overseas edition) and Desh (Bengali weekly) and proceeded on the basis of the said understanding. In fact the employer in its written statement is specifically described as Ananda Bazar Patrika Private Limited, Calcutta and it submitted the balance sheet and profit and loss accounts in respect of the entire activities covering the expenditure and receipts in respect of all its publications mentioned in the present amendment dated March 7, 1969. The employer submits that there is no necessity for the amendment nor for any rehearing of the matter on the basis thereof.

2. Without waiving the objection mentioned above this employer adopts its original written statement already filed and endorses all the evidences already placed before this Hon'ble Tribunal."

The workmen did not file any additional written statement but they adopted the same attitude.

81. I need clear the ground of the preliminary objections before I proceed further. Mr. Shankar Banerjee, learned counsel, who followed Mr. A. C. Mitter, learned counsel, after he had made the opening and became engaged in his other pre-occupations, very strongly contended that the agreement evidenced by Ext. 8 and 8(a) was forced upon Mr. Ashok Sarkar and must not be treated as binding on him. This is not pleaded in the written statement. Of this there is no evidence. Therefore, I make little of this argument.

82. I next turn to the language of Ext. 8 and Ext. 8(a). In both the documents I find that the agreement to implement 75 per cent of the difference between the present emolument and the emolument to which an employee would be entitled under the Wage Board recommendations is to continue irrespective of the result of the adjudication by this Tribunal. Therefore, whatever may be my award the workmen would always be entitled to the benefit of 75 per cent of the recommendations of the Wage Board under the agreement. *My jurisdiction to interfere with the recommendation of the Wage Board is delimited to that extent.*

83. The other part of the objection, that a dispute regarding fairness or unfairness or reasonableness or unreasonableness of the Wage Boards recommendations is not an industrial dispute as contemplated under Section 2(k) of the Industrial Disputes Act and therefore cannot be the subject matter of an adjudication by an Industrial Tribunal, does not impress me. The question is to what wages the workmen are entitled at the present moment. The body constituting the Wage Board had made a survey and recommended wages and wage scales. There exists an industrial dispute about the wages. This Tribunal has to find out whether the workmen are entitled to the Wages recommended by the expert body of Wage Board or to any other wages. If this Tribunal finds that the workmen are not entitled to as much as recommended by the Wage Board, the Tribunal may recommend some other wages. To that extent the recommendations of the Board may be modified but to say that the Tribunal has no jurisdiction to go into the matter is not a legal proposition at all and I over-rule the argument.

84. There were four witnesses examined by the management, namely (1) Aloknath Chatterjee, the Deputy Chief Accountant, (2) Amarendra Nath Das, another Accountant, (3) Pabitra Kumar Mukherjee, an Engineer looking after the maintenance of the machinery and their upkeep and (4) Ganesh Chandra, a third Accountant of the Ananda Bazar Patrika Private Limited. The evidence of Aloknath Chatterjee is mainly devoted to explanation of books and accounts, exhibited in this reference. He said:

(a) The expression "contingent reserve" under the heading 'liabilities' did not actually mean reserve but under this heading were credited unclaimed amounts lying in the books of the company from time to time.

(b) Development Rebate Reserve under the heading 'Liabilities' was created under the provisions of Section 33 of the Income Tax Act, 1961, so far as the witness remembered, in the year 1958.

(c) The intention of the company was to set up another Rotary printing machine, in addition to the one the company had. It was for that purpose that the company began to build up a fund known as the machine replacement reserve. What he meant to say was, the company wanted to have a new machine in place of the old one before it became too old for use. In course of cross-examination on this point, however, this witness said:

"(The attention of the witness is drawn to the Chart of Assets as at 31st December, 1965). The sum of Rs. 18,44,888.98 shown in addition under the year, against item 'Machine' represents the purchase price of a second Rotary machine. (Shown Ext. 1c). In this year also machine replacement reserve was continuing but in the next year it was wiped off. (Shown Ext. 1d). In this year the machine replacement reserve was transferred to General Reserve."

This witness quarrelled with the nature of profit as determined by the Central Wage Board in the following language:

"If provision for taxation and provision for machine replacement reserve be deducted from the amount of gross profit, as shown in the Profit

and Loss account, the profit would come down to about Rs. 524/- (Shown Exts. 1, 1a and 1b). In the year 1964 after deducting provision for taxation and machine replacement from the amount of gross profit the result would be a net loss of Rs. 2,59,341. Similarly for the year 1965 the net figure of loss will be 28566/-. (Shown page 22 of the report of the Central Wage Board for Non-journalist Employees of Newspaper industry—entry against Sl. No. 2). When the Wage Board said that the average net profit per year for 1963, 1964 and 1965 (rupees in lakhs) was 6.39, the Wage Board gave a wrong picture and was very much wrong. The correct picture would be minus 99.27 (in thousands). Without deducting, however, the provision for taxation and reserve from the amount of profit as shown in the profit and loss accounts of Exts. 1, 1(a) and 1(b), the figure would come to Rs. 6.72 (in lakh). [Shown Ext. 1(c)]. If from the figure of gross profit shown in the Profit and Loss account provision for taxation and general reserve be deducted the remainder yields a negative result namely loss of Rs. 60,272. [Shown Ext. 1(d)]. Similarly by deducting from the figure of gross profit the amount of income tax as assessed and provision made for taxation the remainder yields a negative figure namely a loss of Rs. 2,63,306."

He explained the sources from which the management derived income, namely, (i) Circulation and Advertisement, (ii) Waste stock sales, Printing charges and Job printing and (iii) House Rent. Also, according to this witness, the company paid commission at the rate of 75 per cent to Sales Agents of Newspapers excepting that small variations were made at times. In answer to cross-examination by Mr. S. K. Acharya, Counsel, he admitted that the machinery reserve was being built up from out of this profits. He further admitted that a sum of Rs. 50,000/- was contributed toward, Himalayan Expedition in the year 1964. He also admitted that in the year 1965 the Director's remuneration was Rs. 57,000/-, in the year 1966 Rs. 78,000 - and in the year 1967 Rs. 1,02,000/-. He explained the nature of donations given in the following language:

"In the year 1963 the total amount of donation amounted to Rs. 28,292.75, out of that a sum of Rs. 8,200/- was contributed to the Congress funds. In 1964, out of the donation a sum of Rs. 500/- was paid to the Indian National Congress in 1965, out of the total donations made a sum of Rs. 5000/- was donated to West Bengal Pradesh Congress. In respect of each of the years for which Balance sheets have been exhibited before this tribunal, similar donations have been made. Donations to a Political party like the Congress have to be specifically shown because the Companies Act requires that"

I need not concern with the rest of his evidence.

85. The next witness, Amarendra Nath Das, is also accountant who looks after the establishment. He claims responsibility for preparation of a comparative chart of wages marked Annexure X to the Rejoinder filed on behalf of the Ananda Bazar Patrika Private Limited. That chart illustrates the higher scales of wages recommended by the Wage Board vis-a-vis the existing scales and also the short duration of time within which the maximum of the scales, as recommended by the Wage Board, may be reached by a workman. For example, a Sweeper was entitled to a scale of Rs. 40—2—60—2.50—80—3—95, the Wage Board recommended for him a scale of pay of Rs. 100—5—150. Or, for example, a Stenographer was getting in the existing scale Rs. 150—6—186—7—228—8—268—EB—276—9—330 maximum reachable in 23 years. According to the Wage Board's recommendations he is to get Rs. 225—10—275—21—380—42—590 reachable in 15 years. The financial load, as a result of the implementation of the recommendations of the Wage Boards for non-journalist and working journalists taken together would be, according to this witness, Rs. 11,06,985.50 P. Taking Rs. 11,06,985.50 as the base, subsequent increases for journalists and non-journalists would be:

1969	93,240.00
1970	1,05,000.00
1971	1,27,500.00
1972	1,65,000.00

exclusive of Provident fund contribution, Provident fund administration charges, Gratuity, Estate Insurance Premium and Wages for overtime work. So far as office Library was concerned, this witness stated:

"We have no librarians as stated in Annexure B. There are two clerks who work in the library, namely, they prepare the catalogue of books and issue books when required. The senior of the two is a graduate. I do not remember the educational qualification of the junior clerk. I do not know whether they also possess any diploma or Degree in Librarianship. A qualified Librarian has been appointed now for two years to look after indexing and cataloguing. He is a part-timer, and is designated as Part time librarian. The other two persons who work in the library are merely designated as clerks."

About the duties of the clerks, this witness said:

"We have no division of clerks according to job, such as, ledger clerks, clerks doing independent correspondence, clerks doing work relating to tax matter, reference clerk, clerks maintaining leave records, etc. Clerks are allotted works according to the requirement of the company. The wage scales of senior and junior clerks are fixed in our company but no different scales of work for different clerks entrusted with different jobs."

There was not much in the cross-examination by Mr. Acharya, which I need set out here.

86. the third witness for the employer was Prabira Kumar Mukherjee, an engineer. He speaks:

(a) Of the Rotary machines installed in the Press, according to him, one of the Presses was commissioned in the year 1955 and the other in 1966. Before 1955 the company had other Rotary machines. He also spoke of the speed of the rotary machine and the several editions of the Newspaper published by Ananda Bazar Patrika Private Limited. He said:

"Our rotary machines had a speed of 20,000 to 40,000 copies per hour. We published four editions at night and three editions in the day. I cannot off hand say how many copies of Hindustan Standard are printed every day. In respect of Ananda Bazar Patrika, we bring out six editions, three in the night and three in the day. We start printing first edition of Ananda Bazar Patrika at 1.30 in the night. We start printing the first edition of Hindustan Standard at 1.45 at night. I cannot off hand total up the number of copies of Ananda Bazar Patrika. We run the rotary machine for about 6 to 7 hours a day."

He also admitted that Desh and also American Reporter, and outside journal, were also printed in the Rotary machine.

(b) He also spoke of categorisation. He equated some categories of workmen with the categories of Wage Board, for example (i) Block man equivalent to Store man of the Wage Board; (ii) Electric Line man equivalent to Wire man of the Wage Board; (iii) Perforator equivalent to Binder of the Wage Board; (iv) Metal man equivalent to Led Mentors of the Wage Board and (v) a Rotary machine man is designated as 'ink man' in Ananda Bazar Patrika Private Limited.

(c) He admitted the sharp rise in salary which he himself obtained, namely, Rs. 500/- in 1955 to Rs. 1200/- per month at present.

87. The last witness examined on behalf of the employer was Ganesh Chandra Nag, also an Accountant. He spoke about the difficulties confronted by the Newspaper with regard to procurement of newsprint. He said:

"There are three sources from which newspapers get their Newsprint, namely Imported Newsprint, Nepa Newsprint and Duty free white printing paper. Every Newspaper has been allotted a quota of newsprint. Quota was calculated on the number of pages of a newspaper as in 1957 and its circulation as in 1961-62.*** Out of the total allotment of quota, imported newsprint quota comes upto 60 percent. Nepa newsprint comes upto 30 percent and White Printing paper comes upto 10 percent. Since 1961-62, there has been tremendous increase in the circulation of papers published by our concern. The quota is insufficient for meeting the increased circulation. The remainder has to be met by purchase of Duty paid White Printing paper. The price of

duty paid white paper is more than one and half times the price of imported newsprint."

He also complained of the competition by All India Radio to an important source of income of Newspaper, namely, Advertisement. In cross-examination he stated the increase of cost in the number of printed pages in the following language:

"From the year 1965 to the year 1967, the number of printed pages in respect of all the dailies and bi-weekly and weekly journals of our concern have come up from 117 crores to 126 crores, in round figures."

Lastly, he spoke of the increase in circulation of the Ananda Bazar Patrika and Hindustan Standard in the following language:

"In 1965 the circulation of Ananda Bazar Patrika was 1,74,032 per day. In 1966 it was 1,77,225 and in 1967 it is 1,92,155. The figures of publication of Hindustan Standard in 1965 was 53,606. In 1966 it was 56,806, and in 1967 it was 60,435."

88. From a rough summary of the evidence led on behalf of the employers it will appear that the main grievance of the employers was that they were actually earning lesser than what was thought of by the Wage Board. The profit thought of by the Wage Board itself was insufficient to bear the burden imposed by the recommendations of the Board. The second grievance was that the allotment of newsprint quota was insufficient and the company was put to needless expenditure in being compelled to purchase costly white printing paper. The third grievance made was that the urgent necessity of purchasing another rotary was almost ignored and if that had been taken into consideration the company would have been held to be unable to bear any additional burden. The categorisation made by the Wage Board was also disputed, although some of the alleged excluded categories were sought to be brought back under different nomenclature. On the question whether there was a properly paid librarian employed by the company, the factum of employment of such a librarian was hotly disputed.

89. The workmen also examined four witnesses, namely, (1) Nagendra Nath Dutt, claiming to be the present Librarian, (2) Jyotish Chandra Sen Gupta, the letter despatcher, (3) Debaprasanna Sen, President of Ananda Bazar Patrika and Hindustan Standard and Desh Employees' Union, (4) Chandl Charan Das, Ledger Keeper. Nagendra Nath Dutt although claiming to be the Librarian states that there is another part time librarian for cataloguing of library which consists of 16,000 books. In cross-examination he said:

"I am a non-Matriculate. I have not obtained any Diploma in Librarianship. I do not know if Shanti Bose is a qualified librarian. I do not possess any formal letter of appointment showing that I was appointed as a Librarian. There is an order dated 18th June, 1952 appointing me as an Assistant to the Librarian. This is that order. It is signed by Mr. A. K. Sarkar, Director, Ananda Bazar Patrika Pvt. Ltd. (marked Ext. A). At that time there was a Librarian of the name of Hariprasad Basu. I was asked to act as his Assistant. I am not aware whether I am shown as a clerk, in the records of the company."

In further proof he relied upon certain order forms (Ext. C) wherein he signed as librarian. The next witness, Jyotish Chandra Sen Gupta, made the grievance that when he was promoted to the position of Letter Despatch Clerk from the position of Despatch Clerk, he was allowed to draw the same amount which he had been drawing merely as a despatch clerk. He also admitted that there were 6 other Despatch Clerks in the office. There is nothing much in the evidence of this witness. The third witness is Debaprasanna Sen, the President of the Employees' Union. His grievances are two-fold, firstly, the categorisation made by the Wage Board is not wholly correct and secondly, regard being had to the increase in cost of living the Wage scales, as recommended by the Wage Board, should be further increased. He admitted, however, that he could not say how much extra burden the company will have to bear if the recommendations of the Wage Board for non-journalists were implemented. The last witness Chandl Charan Das is a Ledger Keeper. He does not give evidence of any importance and was not even cross-examined.

90. Mr. S. D. Banerjee, learned Counsel appearing for the employers, was in the happy position that having had argued the industrial dispute with regard to the Statesman Limited at some length, he satisfied himself by saying that he would advance the same arguments in respect of this newspaper as well in addition to

the preliminary objections that he had already argued and which I have also disposed of. He rounded off his argument with the contention that there cannot be any rise in wages so far as the employees in Ananda Bazar Patrika Private Ltd. was concerned because the company had no more capacity to pay and this is amply evidenced by the analysis made by the Wage Board itself.

91. Mr. S. K. Acharyya, who appeared for the workmen relied upon the following passages from Ex. U, the book known as "Press in India".

(a) The highest circulation attained by a daily newspaper (Single edition) was 1,92,124 by the Ananda Bazar Patrika (Bengali), Calcutta compared to 1,77,242 in 1966 by the same paper (Page 49)

(b) The publication of Hindustan Standard, Calcutta was taken to be 60,443 (Page 76).

He pointed out that there was an Overseas edition of Hindustan Standard but that has now been stopped.

(c) From page 121 he quoted the following table showing yearly rise of circulation figures of Ananda Bazar Patrika:

Newspaper	Circulation		
	1967	1966	1965
Ananda Bazar Patrika, Bengali	1,92,124	1,77,242	1,74,014

(d) Ananda Bazar Patrika, Calcutta continued to have the highest circulation (1,92,124) in 1967 amongst the daily published in all the languages in India against its own circulation 1,77,242, the circulation of Bengali dailies over 1,00,000 are:

(i) Ananda Bazar Patrika	1,92,124
(ii) Jugantar	1,43,279
(iii) Basumat	1,20,502 (under verification)

On these figures he argued:

(i) The employers were increasing the circulation of one of its dailies and were gaining in money that is to say earning more and more each year.

(ii) The employers were building up a large reserve as admitted by witness Alok Nath Chatterjee himself.

"The sum of 18,44,888.98 shown under additions during the year, against item 'Machine', represents the purchase price of a second rotary machine. Shown Ex. 1(c). In this year also the machine replacement reserve was continuing but in the next year it was wiped off. [Shown Ext. 1(d)]. In this year the machine replacement reserve was transferred to General Reserve."

Analysing the balancesheets, Exts. 1 to 1(d), he submitted that the company was paying donations to Political parties and also arranged mountaineering expeditions which showed that it had money to spare.

(iii) Notwithstanding that the company was creating reserves. It was borrowing money to purchase rotary machine in order to show sham indebtedness.

(iv) Further analysing the balancesheets he submitted that the Directors' remunerations were being increased but not the wages of the workmen.

On the above submissions he contended that the company was in a position to tighten up its expenditure items upon which they were merely squandering away the money and pay the amounts recommended by the Wage Board to the workmen.

92. This is in short the summary of the pleadings, oral and documentary evidence and of the arguments advanced in the reference of Ananda Bazar Patrika Private Limited. I shall make my award in respect of this newspaper establishment later on.

IX

The Newspaper Establishment of the Hindustan Times Limited, Delhi

93. I have next to turn to the part of the Reference made in respect of industrial dispute concerning the Hindustan Times Limited, Delhi, publishing (i) The Hindustan Times (Daily English Newspaper), (ii) The Hindustan Times Evening News (Daily English Newspaper excepting on Sunday), (iii) The Overseas Hindustan Times (English Weekly), (iv) Hindustan (Daily Hindi Newspaper), (v) Saptahik Hindustan (Hindi Weekly), (vi) Kadambini (Hindi Monthly Magazine) and (vii) Nandan (Hindi Monthly Magazine for children).

94. The management filed a somewhat languish written statement. Paragraphs 1 to 3 describe the nature of business carried on by the employer company. Paragraph 2 of the written is set out below.

"2. All the papers mentioned above are published in New Delhi, where the said company also owns a press for the printing and publication of the aforesaid papers and magazines. All these papers (with the exception of the Hindustan Times Evening News and the Overseas Hindustan Times) are independent papers under the charge of separate editors and having separate staff for editing the papers. On the Business and Press sides also, the staff are mostly separate except the Managerial staff and officer. Separate accounts are maintained in respect of each paper. All these papers are, therefore, recognised as separate independent units."

Paragraphs 4 to 32 contain a history of trade disputes between the employer company and the workmen, both journalists and non-journalists, ultimately culminating in the publication of the Report of the Wage Board for non-journalists. Of the aforesaid paragraphs, paragraph 31 need be noted and is set out below:

"31. In response to the tentative proposal forwarded by the Labour Ministry, Government of India, the Management agreed to pay 75 per cent of the difference between the existing emoluments and the emoluments payable under the Wage Board's recommendations from the date of resumption of work by the employers and the demand of the union for implementation of the recommendations of the Wage Board for Non-Journalist Employees was to be adjudicated upon. It was made clear by the Management that 75 per cent of the difference was payable on certain conditions."

In paragraphs 33 and 34, it is stated that of the three terms of reference, the employer company is concerned only with terms of reference 1 and 2 and are not concerned with the third terms of reference at all. In paragraph 34 of the written statement certain preliminary objection are stated against the terms of reference and I set out hereinbelow the preliminary objection in the language in which they are couched:

- "(a) The term of reference No. 1**** poses merely a theoretical question of fairness or reasonableness of the recommendations and does not bring out any dispute regarding the terms and conditions of employment of any person. The National Tribunal is not constituted as an appellate authority over the Wage Board's recommendations. The Non-Journalist Wage Board being a non-statutory Wage Board, has no legal status or *locus standi* and, therefore, no reference order can be made in terms of reasonableness and fairness of the recommendations of the said Wage Board.
- (b) The employees' union has not accepted the recommendations of the Wage Board for Non-Journalists as such and they also wanted some modifications. The reference, therefore, can be in respect of the demands regarding modifications of the wages of the workers and not in respect of the fairness or reasonableness of the assumed standard.
- (c) The report of the Non-Journalist Wage Board exceeds the terms of reference mentioned in the notification of the Government by which the said Wage Board was constituted. And so far as such recommendations are in excess of the terms of reference they should be deemed to be non-existent and no question can arise in respect of the fairness and reasonableness of such recommendations.
- (d) That in terms of reference No. 1, it is stated that the reasonableness or fairness of the recommendations should be judged having due regard to the paying capacity of the respective newspaper establishments, the

employers' agreement and emoluments of employees engaged in comparable establishments. It is not clear which agreement of the employers is referred to in the order of reference.*** So far as the Government, by the terms of order, requires the Industrial Tribunal to judge the fairness and reasonableness of the recommendations from a restricted point of view, the order of reference is defective.

- (e) Though the reference order can require the Hon'ble Tribunal to adjudicate upon an industrial dispute, it cannot lay down the principles which should be taken into consideration for deciding the dispute.
- (f) As far as the Delivery Peons are concerned the additional allowance was paid on the basis of the nature of their duties (ID No. 94 of 1966). The above reference bars the Hon'ble National Tribunal from deciding the wages of the delivery peons.
- (g) That, the Wage Board for Non-Journalist Employees has made a recommendation that for the purpose of fitment, the present emoluments of non-journalists will include the interim relief also. The aforesaid recommendation being contrary to the settlements arrived at between the parties before the conciliation officer, cannot be considered at all. The Hon'ble National Tribunal is, therefore, precluded from considering fairness or reasonableness of this part of the recommendations.
- (h) The Non-Journalist Wage Board has made recommendations, inter-alia, for such employees as do not fall within the definition of "workman" as defined in the Industrial Disputes Act. Examples of such categories are departmental managers, Sectional Heads and such other Officers. The National Tribunal will, therefore, have no jurisdiction to decide the question of pay scales and dearness allowance to be paid to such employees."

So far as second terms of reference is concerned, it is said:

"According to the management, there are no such excluded employees. If the Wage Board does not recommend any increase in wages in respect of certain employees, the presumption is that according to the Wage Board, the existing wages are sufficient."

In the result, the management confined its objection to the terms of reference No. 1 only. I need not concern myself with paragraphs 36 to 44 excepting that in paragraph 41 a running summary of the recommendations made in the majority Report of the Wage Board is given. Paragraphs 45 to 47 of the written statement generally deal with the capacity of the industry to pay. I quote hereinbelow two relevant extracts from paragraphs 45 and 47:

"(45) *** According to the recognised principles of wage fixation, the capacity has to be judged on industry-cum-region basis. As far as the non-journalist employees are concerned, they consist of the factory staff and administrative staff comprising among others of Machinemen, Compositors, Mechanics, Clerks, Stenographers, etc. Such employments are common to other industries as well as various establishments which conduct only job work. There is no special aptitude or skill involved in these operations. The wages for these categories should, therefore, be uniform in all industries in the region. The management would submit that so far as Hindustan Times is concerned, it is situated in Delhi and, therefore, Delhi and near-about areas should be deemed to comprise of a separate region distinct from other places.***

(47) The management would further submit that the mere fact that the profits are sufficient to bear the additional burden is a misleading statement. The entire profits cannot be utilised for increasing the emoluments of the employees because there are other burdens on the resources of the company.***"

Paragraphs 48 to 57 deal with the capacity of the establishment of Hindustan Times to pay the recommended scales of wages. Hereinbelow I quote certain relevant extracts from paragraphs 48, 49, 53, 54 and 55:

"(48) In dealing with the capacity to pay, the Wage Board has at page 21 (Para 3.18) of its report given the average net profit for the years 1963-64, 1964-65 and 1965-66 of the Hindustan Times Ltd., New Delhi, and also indicated the financial burden both in respect of arrears and

recurring burden if the final proposals of the Wage Board for journalists and non-journalist employees were implemented. It is submitted that the said figures are misleading in as much as they do not take into account the impact of the linkage of dearness allowance with cost of living index. Thus, in the year 1968, the impact of higher dearness allowance as a result of rise in cost of living index would be approximately Rs. 2,70,000. Moreover, the Wage Board appears to have taken the impact of the Wage Board's recommendations only in respect of the first year of implementation of its recommendations. It has ignored to take into consideration that on account of the abnormally high rate of increments in the grades the financial burden would increase steeply year after year.***

- (49) It will be seen from the table referred to above that the burden will keep on rising steeply year after year. After 5 years the total increase in the financial burden on account of the recommendations of the Non-Journalist Wage Board will be Rs. 12,40,000 approximately and the total increase on account of the Journalist Wage Board will come to Rs. 5,90,000 approximately, thus making a total additional burden of Rs. 18,30,000 approximately in the 6th year. After adding the amount of nearly Rs. 2,20,000 already paid as interim relief, this total will go upto Rs. 20,50,000 approximately. In the 11th year the total burden of the Journalist Wage Board will go upto Rs. 13,50,000 approximately and the Non-Journalist Wage Board Rs. 23,20,000 approximately making a total of Rs. 36,70,000 which, with the addition of Rs. 2,20,000 approximately paid as interim relief, will go as high as Rs. 38,90,000 approximately.
- (53) ** the increased revenues from advertising and circulation have been completely offset by increased cost of raw materials and wage bill leaving the Company's net profit position, after taxation, virtually unchanged over a period of 9 years. Moreover, the profit ratio to the turn-over has been going down and a further increase in the wage bill and cost of raw materials will lead to further drop in the profit margin in the current financial year.
- (54) ***If we look at the last 9 years of the Company's operations, it will be found that there are two lean years with virtually no profit. Such lean years completely paralyse the newspaper organisation. There must, therefore, be a built-in shock-absorbant in the organisation itself so that it is able to meet such contingencies.***
- (55) ***In the present case even to keep the industry going as a viable unit, it is necessary that provisions are made for rehabilitation. We give below some of the minimum essential requirements of rehabilitation which must be met:
- (a) Most of the plants and machinery being used in this establishment are old and out-moded. As far as the rehabilitation of these old and out-moded machines go, the cost will come to about Rs. 90,00,000.
 - (b) Then, to ensure speedy and smooth production the sheet Offset plants are to be replaced by an Offset Rotary Press and its cost will be nearly Rs. 60,00,000.
 - (c) Also, the existing Monotype machines are to be replaced by Linotype machines the cost of which will come to about Rs. 9,00,000. There are other smaller machines to be replaced which are not included in the items mentioned above. Their cost will be to the tune of Rs. 10,00,000."

Paragraphs 58 to 62 deal with emoluments of employees in comparable establishments. Hereinbelow I set out three extracts from paragraphs 58 and 61:

- "(58) The Wage Board has purported to discuss this matter on pages 12-13 (Paras 3.12—3.15) of its report. It has compared the wage scales proposed for Peons and has stated that the wage scales for Peons belonging to Class VII compare favourably with the wage scales fixed for Peons belonging to Government Presses situated in Areas III and Area II. With respect of Class I, II and III papers, it has stated that the proposed wage scales compare very favourably with that of the Government printing presses situated at Bombay, Madras, Calcutta and Delhi. There is no other comparison made by the Wage Board with other establishments or in respect

of other categories. Taking the Wage Board itself has considered that a comparison is permissible with the wage scales of Government Printing Presses. Why the comparison should be made with Class VII newspapers is not fully understood.***

- (61) Even when wage structure is revised, Industrial Tribunals are careful and cautious with regard to the extent of the increase. As against this, the Wage Board has given a sudden increase of wages which in certain cases comes to more than 200 per cent.***

Paragraph 63 deals with objections against classification of newspapers as done by the Wage Board and hereinbelow the objection is indicated:

- "63. *** The Management submits that while some differentiation into classes may be permissible the creation of too many classes will militate against the industry-cum-region basis. However, the emoluments fixed for the higher classes are absolutely out of proportion to the emoluments fixed for the lower classes which also militates against the principle of industry-cum-region basis.***"

Paragraphs 64 to 68 deal with groupings as made by the Wage Board. I set out below the material parts of the objections:

- "64. *** Generally, the policy has been, in the absence of a scientific job evaluation, to leave it to the management to fit the employees into various scales having regard to their skill, suitability, experience, etc. Generally speaking, the existing differentials in the emoluments of the various categories of employees have been maintained. As against this, the Wage Board has clubbed together different categories of the non-journalist employees in one group on an *ad hoc* basis. The grouping and clubbing together is unscientific and would result in considerable hardship to the employer and considerable heart-burning among the employees. Quite a number of categories clubbed in one group are at present drawing salaries which are not comparable at all. The clubbing together of employees at present drawing different salaries and having different traditional status in one group with a common wage structure will instead of bringing peace in the industry give rise to industrial unrest.***"

- 65 It is submitted that in the absence of scientific job evaluation, the Wage Board ought to have kept the traditional categorisation of employees.***"

In paragraph 69 objection is taken to the short span and high rates of increments in the following language:

- "69. In the scales prescribed by the Wage Board for factory staff and administrative staff, the span of 10 years, 12 years and 15 years has been prescribed. At the same time the difference between the minimum and maximum in each scale is very high. Because of the short span the rates of grade increments are very high as compared to most wage structures. The result is that the financial impact of the scales prescribed keeps on mounting steeply resulting in higher and higher burden on the newspaper establishments year after year.***"

In paragraph 70 complaint has been made against absence of efficiency bar and jumping up wages without crossing the efficiency bar. I set out below the nature of objection taken in the language used:

- "70. **It will be seen from the scales prescribed that there are various steps in the scales and after 5 years the rate of increment generally goes up. For example, the scale prescribed for Group V (Administrative Staff) in Class II paper is Rs. 225—10—275—21—380—42—590. After every 5 years, the rate of increment makes a jump and almost becomes double of what it was in the previous part of this scale. There is no justification given for such a jump in the rate of increment. Moreover, not even an efficiency bar is provided for being qualified to draw the higher rate of increment in the scale."

Fitment as recommended by the Wage Board are objected to in paragraph 71 and it is submitted that the recommendations of the Wage Board are completely contrary to the principles enunciated by the Supreme Court in the case of French Motor Car Company (1962) II LLJ 744 and, therefore, absolutely unfair and unreasonable. Paragraphs 72 to 75 deal with objections regarding dearness allowance as recommended by the Wage Board. It is stated that in

fixing dearness allowance the basic principles was ignored. It is further stated in paragraph 74:

"The Wage Board has linked the dearness allowance with the cost of living index for all categories with the result that the management would be burdened with increasing unspecified and incalculable liability for the future years placing increasing burden on the economy of the newspapers. While linkage of the dearness allowance with the cost of living index in the lowest categories is sometimes allowed, such linkage for higher categories is not only not universal but exceptional. Moreover, the linkage rate of 50 paise per point rise or fall in dearness allowance is much too high specially having regard to the fact that the employees are already getting substantial increments in their grades every year."

It is also stated in paragraph 75:

**** Even if the dearness allowance had to be linked with the cost of living index, there is no reason why the formula laid down by the Supreme Court in the case of this establishment should have been disturbed. There is also no reason why local cost of living index series for Delhi should be discarded in preference to the all-India cost of living index."

In paragraph 79 objection is taken to the date of the operation of the recommendation and it is stated that any wage structure that may be prescribed should be prospective and not retrospective. Paragraph 80 to 89 deal with the Hindi Daily newspaper known as Hindustan. It is therein stated that many expenses which could have gone into the account of Hindustan have not been fully allocated and yet Hindustan has been showing constant and mounting losses. In the face of this fact the classification of Hindustan into Class II is clearly arbitrary. It was also urged that the recommendations of the Wage Board in respect of Hindustan was purely arbitrary and contrary to the financial capacity of the Hindustan to shoulder.

95. The workmen represented by the Hindustan Times Employees' Union also filed a written statement. In paragraph 3 of the written statement the financial position of the company was described in the following language:

"3. The subscribed capital of the Company is Rs. 13,19,000. The Share holders have taken fabulous amount by way of dividends every year since the inception of the Company. The Company has build up reserves to the tune of Rs. 94,51,448 as on 31st March, 1968 and its gross revenue stood at Rs. 2,74,20,072 as on 31st March, 1968. At the end of the financial year on 31st March, 1968, the Company had fixed assets worth Rs. 50,68,351."

In paragraph 4, there were different charts included showing:

- (a) The circulation revenue, the advertisement and other revenues of the company from the year 1956-57 to the year 1967-68.
- (b) The position of the company in regard to the subscribed capital, reserve, gross revenue and net profits during the years 1957-58 to 1967-68.
- (c) The position of the company with regard to its property and assets during the years 1957-58 to 1967-68.
- (d) The position with regard to dividend paid and declared by the company, and the dividend reserve during the years 1957-58 to 1967-68, and
- (e) The position of the company pertaining to its Current Assets and Liabilities during the years 1957-58 to 1967-68.

The charts show gradual improvements. In paragraphs 5 to 13 are described the industrial struggle culminating in the present report of the Wage Board. In paragraph 14 of the written statement it is stated that the All India Newspaper Federation demanded implementation of the recommendations of the Wage Board as modified by the Government although the same fell far below their expectation. In paragraphs 15 and 16 are described the interim increases granted. In paragraph 17 it was submitted that the recommendations of the Wage Board as accepted by the Government were unfit, unfair or unreasonable for certain reasons and the recommendations deserved to be modified by this Tribunal. How

the said recommendations were unfair and unreasonable are set out in the language used by the workmen:

- “(a) While the Supreme Court has held in an appeal brought before it concerning revision of wage structure of the newspaper employees in the Hindustan Times Ltd., that the Hindustan Times is a bigger paper than either Times of India or The Statesman published from Delhi, the Wage Board has recommended pay scales lower than those prescribed for such newspapers.
- (b) In the same manner, the Wage Board has prescribed rates of dearness allowance much lower than what is at present obtaining in Times of India, Delhi.
- (c) The Wage Board has indicated a scheme of fitment into the new scales which gives hardly any weightage for past service.
- (d) The recommendations of the Wage Board for treating Weeklies and Monthlies separately though published by the same newspaper establishment and for a system of weightage for group newspapers, is irrational and unworkable, the proper method to be adopted being to take the total gross revenue of the newspaper establishments and put all the employees in one class.
- (e) The classification of newspaper employees is incomplete and several categories have been omitted.
- (f) The date of operation as accepted by the Government, which is 1st July, 1967, is unfair to the workmen who have waited for long years and it should be from 1st January, 1966.
- (g) The gratuity scheme recommended by the Wage Board is vague and deserve modification in certain respects.”

In paragraph 21 it was stated that the Report of the middle class Family Living Survey of 1958-59 revealed that the Delhi was the costliest city throughout the country. In paragraph 23 it was stated that all the publications of Hindustan Times Limited were managed and controlled by one company and that all the employees should belong to one of the same class which in the case of Hindustan Times should be Class I. In paragraph 24 it was stated:

“In brief our Union demands that the Hindustan Times Ltd., should be treated as one establishment for the purposes of wages, gratuity etc.”

In paragraph 27 the pay scale demands as against the pay scales recommended by the Wage Board were set out. The demand was in excess of the scales recommended by the Wage Board. In paragraph 28 the workmen claimed the rates of dearness allowance as now prevailing in Times of India, if not more. In paragraph 29 the workmen claimed the following scheme of fitment:

- “(a) If the basic pay of a workman is less than the revised scale, his initial pay will be brought to the level of the minimum of the revised scale.
- (b) Every workmen should be fixed in the pay scale applicable to him and if his present basic pay does not fall in any stage of the scales, he should be fixed at the next higher stage.
- (c) After fixing the basic pay of workman in accordance with (a) and (b) above, he should be given additional service increments @ one increment for every two completed years of service, with a maximum of 8 increments.
- (d) The basic pay for purposes of fitment will be inclusive of the interim relief being paid to the workmen.
- (e) The future annual increments should fall due on 1st April every year as is the rule in the Company for the past many years.”

In paragraph 30 it was stated that there was no rational basis on which the Government's decision to give effect to the Wage Board's recommendations from 1st of July 1967 could be supported. The written statement advocated effect of the recommendations from January 1, 1966. In paragraph 31 there was the worker's scheme of dearness allowance set out in full. In paragraph 32 there was a list of omitted categories of workmen. This is in short the summary of the written statement filed on behalf of the workmen.

96. To this written statement of the workmen there was a rejoinder filed by the management on December 4, 1968. Under heading (A) Preliminary Objection it was stated:

“*** In the written statement under reply the Union has, however, raised a number of demands which go outside the scope of the demand notices dated 6th July, 1968 and 8th July, 1968. Such additional demands were never raised by the Union to the Management and were never the subject matter of the industrial dispute and as such they cannot be said to be comprehended under the scope of the reference order. The Hon'ble National Tribunal has, therefore, no jurisdiction to decide such additional demands.”

Under heading (B) Reply on Merits, it was stated in paragraph 2:

“It is, however, submitted that there was another English Weekly named WEEKEND REVIEW which was closed after the recommendations of the Journalists and Non-Journalists Wage Boards were known.”

Under this heading the contentions of the workmen about the financial stability of the industry and its capacity to pay was sought to be disputed by certain figures. Further under this heading the scales suggested by the workmen were disputed. Also under this heading the management disputed that any category of workmen in the establishment was left out by the Wage Board. There was a list appended stating certain categories of workers named by the workmen were not even employed by the management in the press.

97. The workmen thought it proper to file a rejoinder to the rejoinder filed by the management. This is mainly argumentative and repeats what was stated in the written statement.

98. After the amendment to the original reference made on March 7, 1969, there was an additional written statement filed on behalf of the management on April 14, 1969. In the said additional written statement it was stated:

“In the newspaper industry each paper is considered to be a separate unit for purposes of wage fixation. If two or more newspapers are published from the same place by the same newspaper establishment then also the wages are considered on the basis of each unit separately.”

It was further stated in the said additional written statement:

“The company has got one balancesheet and profit and loss account in which the financial position of the company is reflected. Apart from that, the company keeps books in respect of the major heads of income and expenses from which the financial position of each paper can be known. The management has filed statement of profit and loss accounts, publication-wise for the years 1963-64 to 1967-68 which shows the financial results of different Hindi papers. This may kindly be read as part of the present written statement.

	1963—64	1964—65	1965—66	1966—67	1967—68
Hindustan	+119,657	—121,042	—60,680	—170,896	—558,836
S.H.	—156,191	—210,343	—531,895	—666,850	—469,501
Kadambini	—74,559	—55,862	—83,782	—57,448	—72,258
Nandan . . . . .	..	—67,637	—143,451	—122,361	—91,810

+Denotes profits

—Denotes loss

The above figures shows that none of the above paper is profitable.”

It was also stated in the said additional written statement:

(a) The staff of each paper is separate;

(b) All the newspapers are recognised as separate units by the Government,

and it was concluded by stating that the newspapers excepting the Hindustan Times have no capacity to shoulder the additional burden imposed by the Wage Board.

99. To this additional written statement there was another additional written statement filed by the workers. The contentions raised on behalf of the management were generally denied and disputed. It was therein stated that treated as one unit the staff employed in all the publications would get the benefits of the recommendations of the Wage Board if not further improvement thereon as claimed by the workmen.

99(a). Consequent upon the order of Government of India dated February 12, 1969, including Hindustan within the scope of the adjudication, the management filed an additional written statement with regard to the newspaper known as 'Hindustan' of which paragraph 1 is the material paragraph, the rest being an elaboration of what had been submitted before. I set out hereinbelow paragraph 1 from the written statement:

"That in Para No. 32 of the written statement of the Management dated 26th November, 1968, the Management had submitted that the reference was till then limited to an alleged dispute between the employers and workmen of the Hindustan Times. The reference did not entitle the Hon. Tribunal to adjudicate with regard to wage structure in newspapers and publications of the Hindustan Times Ltd., other than the Hindustan Times. The Management had made its submission on merits with regard to the wage structure of Hindustan without prejudice to the preliminary objection. The management reiterates and adopts the submissions made therein, but without prejudice to what has already been stated."

100. The workmen also filed a written statement and for the present purpose it is enough for me to set out paragraphs 1 and 2 from the said written statement:

"1. The Union submits that there is no separate establishment or undertaking by the name of Hindustan, New Delhi. Hindustan is the name of one of the publications issued by Messrs Hindustan Times Ltd. The Union has already submitted in the written statement filed on 25th November, 1968, that the Company, namely Messrs Hindustan Times Ltd., has only one establishment situated at Connaught Circus, New Delhi. The Company publishes the following newspapers and periodicals from the above establishment:

1. The Hindustan Times (English Daily).
2. The Hindustan Times Evening News (English Daily).
3. The Overseas Hindustan Times (Weekly—English).
4. The Hindustan Hindi (Hindi Daily).
5. The Saptahik Hindustan (Hindi Weekly).
6. Karambira (Hindi Monthly).
7. Nandan (Hindi Monthly).

2. All the above publications are issued by the Company and the workmen are employed by the Company for carrying out the total work of the Company. There are no separate and distinct establishments for each of the publications. There are no separate accounts for the various publications referred to above. In these circumstances the amendment made by the Government of India in the above order of reference by adding the name of the publication of Hindustan, New Delhi is redundant and superfluous. The original reference order related to all the employees employed in the Company, namely Messrs Hindustan Times Ltd., and the omission of the word 'Limited' in the original order of reference was of no consequence. In these circumstances the Company is not entitled to file any additional written statement and the additional written statement so filed may kindly be ignored."

This finishes with the examination of the numerous pleadings in respect of the newspaper establishment known as the Hindustan Times Limited.

101. I need now recite in brief the oral evidence tendered in respect of this newspaper establishment. There were four witnesses examined on behalf of the employers, namely, (1) A. N. Ghosal, the Composing Superintendent, (2) R. N. Sinha, Establishment Officer and Manager of the Hindustan Times Press, (3) J. L. Gupta, an Accountant and (4) C. D. Dadoo, also an Accountant. This last witness was recalled at the prayer of the parties for further examination. On behalf of the workmen, there was only one witness examined, namely K. L. Kapoor, a Sub-editor in Hindustan Times.

102. A. N. Ghosal, is the Composing Superintendent. He claims to be in charge of all types of composition work, either in English or in Hindi. He explained that his duties comprised of general supervision duty. He was shown a statement of salary scales and dearness allowance existing before the Wage Board and salary scales and dearness recommended by the Wage Board for different categories and answered to the Tribunal as follows:

"Attention of the witness is invited to heading English News and Advertisement, composing department). The Assistant Foreman gets lesser scale of pay because a foreman is the more responsible officer and it is the duty of the Assistant foreman merely to assist the foreman in the discharge of his duties. The duty of a proofman under this heading is to take proof matters from the set to the lino machine. He is a mere carrier. A senior lino-operator under the heading 'Lino Operator' can compose 1200 lines to 1400 lines per shift and is the more experienced and more infallible operator; whereas a lino-operator can compose upto 1000 lines per shift and is not as experienced or as infallible as the senior lino-operator. Mechanics and Assistant Mechanics in this department may be differentiated on the ground that a mechanic is a more experienced man in operating the complicated lino machinery but an assistant mechanic is not so competent and his duty is only to assist the mechanic. The junior machineman under the heading 'Rotary Department' gets lesser scale of pay than machineman because they are only under training."

In examination in-chief, he further said:

"My answer is the same with regard to Line Etcher and Junior Line Etcher under the heading 'Process department'. (Statement showing salary scales marked 'Z' for identification). (Shown document headed Comparative Salary scales—Hindustan). The Hindi Lino-Operator under the heading 'Press staff' works exclusively for the Hindi edition of Hindustan Times known as Hindustan. The staff employed in the Hindi press is different from the staff employed in the English Rotary press. The Hindi News and Advertisement composing department is also separate from the corresponding English department. There is no mono department in the English edition of Hindustan Times. Mono-perforating is a very simple method whereas lino-operation is a very complicated thing. Lino-machine is also a very complicated machine compared to Mono-machine. A mono-worker gets less than a Lino-operator because the former does simpler work."

With regard to the machinery worked in the press this witness said:

"Upto five years these machines give trouble-free service; thereafter we have to change parts of it and use spares. With such replacements of parts, it can be used upto 15 to 20 years. Thereafter they require replacement for economic reasons."

In cross-examination he said:

"I do not remember how many junior machine men were promoted as machine man in the year 1966. After one year's training, a junior machine man, if capable, is promoted as machine man. There are two rotary machines in our Establishment. The last rotary machine was installed about 10 years back. Prior to the installation of the second machine the Hindi edition and the English edition of the Hindustan Times used to be printed on the same rotary machine. Now, the Hindi and the English editions are not printed on the same machine. The Hindi edition is printed on Duplex rotary machine and the English edition is printed on Wifag rotary machine. The Hindi edition is not ever printed on Wifag machine. I never worked as Mono operator myself."

Lastly, in answer to a question put by the Tribunal, he said:

"All the papers that I have named are printed in Hindustan Times Press. They are all published by Hindustan Times Newspapers establishment. I also look after the publication of the Hindi monthly magazine known as Kadambini and the Hindi monthly magazine for children known as 'Nandan'. These two magazines are also published from the Hindustan Times Newspaper establishment. For

the printing Hindustan Evening News, Overseas Hindustan Times, Saptahik Hindustan, Kadambini and Nandan, we have separate staff for each as we have separate staff for Hindustan Times English edition and Hindustan the Tindi version."

The next witness was Mr. R. N. Sinha, the Establishment Officer and Manager of the Hindustan Times Press. In his examination in-chief he said:

"There are some staff who work in common in respect of all the publications of Hindustan Times Limited. There are others who attached to a particular publication. The Managerial and the supervisory staff are all common staff. The general staff for example, Watch and Ward, Drivers, Maintenance staff, Despatching staff (that is to say those are engaged in packing and bundling), the electrical staff, the workshop staff are common for all the publications. The members of the clerical staff are also mostly common, excepting a few members of clerical staff who are attached to a particular publication for example clerks attached to an editorial department. The process department staff is also common for all the publications. Other employees are all attached to particular publications. The editorial staff is separate for each publication, so also is the composing and the printing staff. We have subsidiary separate account for each publication. There is, however, a consolidated account for the company."

In course of his examination in-chief he further said:

"On the basis of Gross Revenue and under Paragraph 4.9 of the Report of Wage Board for Non-journalist, Hindustan (that is to say the Hindi daily newspaper) will fall in class IV. The General Manager and other departmental managers are paid out of Hindustan Times fund. Of the other members of the common staff some are paid out of Hindustan Times fund, other out of the funds of the other publications of the Hindustan Times Limited. The correspondents in India outside Delhi and correspondents abroad are mostly paid by Hindustan Times excepting two or three who are paid the Hindi daily Hindustan."

With regard to the condition of the machines, he said:

"The machines purchased in thirties are not working satisfactorily. Other machines include all sorts of miscellaneous machines. We want to change the mono type machines to lino machines for the purpose of using better and speedier composing machines. We need Wifag Off-set rotary press to replace our present off-set printing machine."

In answer to a question put by the Tribunal, he said:

"I do not have any training in the mechanics of printing. My knowledge about some of the modern machinery is based on the advertisement literature that I read."

He emphasised upon the fact that the machine fund that was built up was not sufficient for replacement of the machines which required to be replaced. In answer to cross-examination by Mr. Ram Murthy, this witness said:

"There are several clerks working in the Accounts Department. There are no clerks in our establishment designated as Accounts Clerk, Clerks who work in the accounts department are merely designated as clerks. I do not know whether advertisements meant for publication in the Hindi daily Hindustan are also received in English language. If an advertisement in English be at all received for publication in Hindustan, that need be translated in Hindi. There are a few assistants who may be entrusted with such matter. We have two franking machines in our establishment. The senior clerk in the despatch department operates the machines. In his absence, another clerk does the job. There is a lift working in the office. Whenever necessary a peon or the Chowkidar takes the lift up or down. We have got a ludlow machine in our Press. The joiner or the corrector in the English press operates the machine. We do not have any APL machine in our Press. (Shown paragraph 28 of Ext. 83—Stereo caster). Stereo casters are designated in our Press as Stereomen, that is why we said that there was no Stereo caster in

Hindustan Times Ltd. It is my definite evidence that categories mentioned under Factory staff apart from Stereo caster, who is called Stereo man, we do not have in our factory at all those men under any other designation. When there is a break down in the Rotary, the two persons designated as foreman with the help of the Asstt. foreman attend to the breakdown. In case of major breakdowns, we send for the supplier's men. Rewinding is not done in our Press."

He also said that the Teleprinter was available to all publications by Hindustan Times Limited. He spoke a good deal about accounts but had not admittedly sufficient knowledge about accountancy. The third witness was J. L. Gupta, the Accountant. He proved certain exhibits relating to accounts and said:

"Hindustan Times Limited maintains sub-accounts for its separate publications. We maintain the revenue accounts of each newspaper separately. (Shown Ex. 97). Under heading expenses, the figures against "paper" represent the average price paid for the quantity of paper consumed by Hindustan Hindi. All these statements were prepared by Mr Dadu and are signed by him. I know his signature. He himself prepared these statements, and I know that. Excepting the cost of paper, the other figures were taken from books of accounts maintained in the office."

The fourth witness was C. D. Dadu, another Accountant. He proved certain accounts. He admitted:

"The figures against Advertisement, Sale of papers, Salary and Wages only will appear from the main books of accounts. The figure against paper under column 'expenses' will appear from the subsidiary book of account for each publication. (Page 155 of Genl. Ledger for 1966-67 marked Ex. 116). The other figures in Ex. 97 series have been worked out on percentage basis, excepting the figures against Bonus, Prov. Fund, Gratuity and Interim Relief which have been calculated not on percentage basis but on the basis of actuals paid personwise. The other figures are on percentage basis. There is a common ledger for gratuity in respect of Hindustan Times Limited's employees. So also there is a common ledger for Provident fund. Under the heading 'Expenses' salary means salary payable to persons who are working in the office and wages means wages payable to persons working in the Press. (Shown the figure 3,27,672 in Ex. 97 against 'Wages' under the year 1967-68). This figure can be found out from the General Ledger (Page 178 of the General Ledger for 1967-68 was produced, that only showed the figure of 3,14,560). The difference between 3 lakhs 14 thousands and odd and the figure 3 lakhs 27 thousands odd can be made up by addition of overtime amount paid to Hindustan workers. The exact amount overtime paid to such workers can be checked up by totalling up the figures appearing in the vouchers which have not been produced. (Page 178 of the General Ledger is marked Ex. 117). The entire amount of overtime paid to Hindustan workers is credited to the Ledger of Hindustan Times. In respect of other publications the entire amount is not debited to Hindustan Times account but to other account also."

On behalf of the workmen only one witness was examined, namely K. L. Kapoor. He proved statements. Exts KK to KK7, Ex. LL, Ex. MM, Ex. MN, Ex. OO and certain other documents. This is in short, the summary of the oral evidence tendered in this case.

103. There was a number of documents marked as exhibits on behalf of the Hindustan Times Limited. Amongst the documents exhibited by the management are exhibits 90 to 90(d) being the Annual Reports and Accounts for the years ended 31st March, 1964 to 31st March, 1968. The relevant portions from the said exhibits are set out hereinbelow:

"Years Ended 31st March, 1964 (Ex. 91)

Your Directors have pleasure in presenting to you the the Annual Report and Accounts of the Company for the year ended 31st March, 1964:

The Profits after Providing Rs. 5,96,531 for depreciation amount to

Rs. 33,25,987

To which is added the balance brought forward from the previous year of

Rs. 971

Making a total of the C. O.

33,26,958

	Rs.	Rs.
To be appropriated as under:		
General Reserve	5,35,561	
Reserve for Non-Journalist Gratuity	10,700	
Development Rebate Reserve	16,155	
Reserve for Contingencies	26,50,000	
Dividend Reserve	94,124	
Bad & Doubtful Debts	18,152	33,24,782
Balance to be carried forward		2,176
		<u>33,26,958</u>

Your Directors recommend for your consideration at the Annual General Meeting to be held on 29th September, 1964, the payment of Dividends, subject to deduction of tax under the Income-Tax Act, on 5,000 Cumulative Redeemable Preference Shares of Rs. 100 each @ 7.1428 and on 8,190 Equity Shares of Rs. 100 each @ 7.1428 from the Dividend Reserve.

The turnover which is nearly Rs. 198 lacs represents an increase of about Rs. 25 lacs over that of the last year. There has been an increase in revenue both from the advertisement and sale of papers. There is also a corresponding increase of Rs. 9 lacs in expenditure. In the salaries and wages bill is included an amount of Rs. 76,750 paid as interim relief to the staff. This covers the period November 1963 to March 1964. The amount payable in the current financial year will be approximately Rs. 1,95,000.

The two daily newspapers. The Hindustan Times and Hindustan, have registered an increase in their circulation as shown below:

	July to Dec. 1962	July to Dec. 1963
The Hindustan Times	102,143	106,038
Hindustan	70,144	

There has been further increase in circulation of the above publications in the last quarters of the financial year under review and the upward trend continues."

"Year ended 31st March 1965—Ex. 90(a)

Your Directors have pleasure in presenting to you the Annual Report and the Audited accounts of the Company for the year ended 31st March, 1965.—

The profits after providing Rs. 5,14,679 for Depreciation and Rs. 35,260 for Development Rebate and after adjusting Rs. 6,96,500 being the apportioned value of Curzon Road Building on demolition amount to	Rs.
	29,69,297

To which is added the balance brought forward from the previous year	2,176
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Making a total of 29,71,473

To be appropriated as under:—	Rs.
Provision for Taxation	18,70,000
General Reserve	9,10,000
Reserve for Non-Journalists Gratuity	82,400
Dividend Reserve	94,214
Provision for Bad & Doubtful Debts	10,000
Balance to be carried forward	29,66,614
	<u>4,859</u>
	<u>29,71,473</u>

Your Directors recommend for your consideration at the Annual General Meeting to be held on the 27th September, 1965, the payment of Dividends, subject to deduction of tax under the Income Tax Act, on 5,000 Cumulative Redeemable Preference Shares of Rs. 100 each @ Rs. 7.1428 and on 8,190 Equity Shares of Rs. 100 each @ Rs. 7.1428 from the Dividend Reserve.

The turnover which is about Rs. 221 lacs represents an increase of about Rs. 23 lacs over that of the last year. There has been an increase in revenue both from the advertisement and the sale of papers. There is also a corresponding increase of Rs. 20 lacs in expenditure, notably in raw materials, salaries and wages.

The two daily newspapers, The Hindustan Times and Hindustan, have registered an increase in their circulation per issue as the following comparative figures will show:—

	July to Dec. 1963	July to Dec. 1964
The Hindustan Times	106,038	112,630
Hindustan	77,529	84,893

Year ended 31 st March 1966—Ex.90(b)—

Your Directors have pleasure in presenting to you the Annual Report and Audited Accounts of the Company for the year ended 31st March, 1966. —

The profits after providing Rs. 6,23,178 for Depreciation and Rs. 2,51,673 for Development Rebate amount to	Rs.	30,89,431
To which is added the balance brought forward from the previous year		4,859
Making a total of		30,94,290
To be appropriated as under —	Rs.	
Provision for Taxation	19,90,000	
Provision for Taxation for earlier year	20,000	
General Reserve	8,90,000	
Reserve for Non-Journalists Gratuity	83,500	
Dividend Reserve	94,214	
Provision for Bad & Doubtful Debts	10,000	
Balance to be carried forward		30,87,714 6,576

Your Directors recommend for your consideration at the Annual General Meeting to be held on September 23, 1966, the payment of Dividends, subject to deduction of tax under the Income Tax Act, on 5,000 Cumulative Redeemable Preference Shares of Rs. 100 each of Rs. 7.1423 and on 8,190 Equity Shares of Rs. 100 each of Rs. 7.1428 from the Dividend Reserve.

The turnover which is about Rs. 226 lakhs represents an increase of about Rs. 7 lakhs over that of the last year.

The comparatively high cost of white printing paper consumed in larger quantity during the year under review put up the expenses on raw materials. Expenses on many other counts also went up.

The current year commencing from April 1966 is going to be a difficult year because of devaluation of the rupee which is estimated to increase our expenses approximately to the tune of Rs. 18 lakhs.

The two daily newspapers, The Hindustan Times and Hindustan have registered an increase in their circulation per issue as the following comparative figures will show:—

	July to Dec. 1964	July to Dec. 1965
The Hindustan Times	112,630	113,478
Hindustan	84,893	99,264

Year ended 31st March, 1967—Ex. 90(c)—

Annual Report and Audited Accounts of the Company for the year ended 31st March, 1967.

The Profits after providing Rs. 6,11,613 for Depreciation and Rs. 14,366 for Development Rebate amount to	Rs.	33,05,376
To which is added the balance brought forward from the previous year		6,576
Making a Total of		33,11,952

To be appropriated as under:—		Rs.
Provision for Taxation		20,90,000
General Reserve		11,00,000
Reserve for Non-Journalists' Gratuity		11,700
Dividend Reserve		94,214
Provision for Bad and Doubtful Debts		15,000
		<u>33,10,914</u>
Balance to be carried forward		<u>1,038</u>
		<u>33,11,952</u>

Your Directors recommend for your consideration at the Annual General Meeting to be held on September 28, 1967, the payment of dividends, subject to deduction of tax under the Income Tax Act, on 5,000 Cumulative Redeemable Preference Shares of Rs. 100 each Rs. 7,1423 and on 8,190 Equity Shares of Rs. 100 each @ Rs. 7.1428 from the Dividend Reserve.

There has been an increase in revenue, both from the advertisement and sale of papers. The gross revenue which is about Rs. 253.77 lakhs represents an increase of about Rs. 25.6 lakhs over that of last year.

There is also a corresponding increase of about Rs. 23.4 lakhs in expenditure over that of last year. The expenses on newsprint, news messages and salaries etc. of foreign correspondents were particularly high due to devaluation, besides increase in the salaries and wages and other expenses."

Year ended 31st March, 1968—Ex. 90(d)—

Annual Report and Audited Accounts of the Company for the year ended 31st March 1968
The Profits after providing Rs. 5,36,238 for Depreciation amounted to

25,46,856

To which is added the balance brought forward from the previous year

1,038

Making a total of

25,47,894

To be appropriated as under:—

Provision for Taxation	13,50,000
General Reserve	10,50,000
Reserve for Non-Journalists' Gratuity	32,000
Dividend Reserve	94,221
Provision for Bad and Doubtful Debts	20,000
	<u>25,46,221</u>

Balance to be carried forward

1,673

25,47,894

The increase in the expenditure amount to Rs. 28.06 lacs over that of the last year, is largely due to increase in salaries and wages including on account of Wage Board's recommendations, besides increase in the cost of raw materials, freight and other expenses.

The increase in the revenue is Rs. 20.43 lacs over that of the last year, from Advertisement, sale of papers and other miscellaneous income.

As a result of substantial increase in the expenditure, as stated above, the net profit has gone down by Rs. 7.63 lacs. The impact of Wage Board's recommendations, if and when implemented in full, would be very heavy and the recurring burden on this account from year to year will also be substantial. The Commercial Radio Broadcast which will be extended to the Delhi region, by the end of this calendar year, will take away a sizable volume of advertising business from year to year in future. That apart, Delhi has the largest number of English dailies even though, commercially it is not so big as Bombay and Calcutta. These are important aspects which will have bearing in future on our working results.

The Company's own multi-storied premises under construction at the Curzon Road, New Delhi, is progressing well. It is expected that the construction would be completed in about two and a half years."

104. Mr. B. Sen, learned Counsel for the management of Hindustan Times Limited, generally adopted the arguments made on behalf of the management of

Statesman Limited and the Ananda Bazar Patrika Private Limited in so far as they applied to Hindustan Times Ltd., He, however, argued certain additional points. He contended, in the first place, that the workmen were not entitled to claim more than what the Wage Board had awarded. This argument, however, he advanced without conceding that the workmen were at least entitled to the recommendations made in their favour by the Wage Board. He invited my attention to the following portion of Ex. 83, a letter written to the General Manager of Hindustan Times by the General Secretary, Hindustan Times Employees Union dated July 6, 1968. It was stated in the above letter:

"You will appreciate that the employees have been left with no alternative but to take to agitation for the implementation of the Wage award."

Mr. Sen contended that the workmen had never raised any dispute before the management that they were entitled to get much more than what had been recommended in favour of them by the Wage Board. By merely raising this demand before the Government for adjudication by this Tribunal the workmen would not succeed in converting their demand into an industrial dispute. In support of the proposition, he relied upon a judgement of the Supreme Court in *Sindhu Resettlement Corporation Limited vs. Industrial Tribunal, Gujarat*, (1963) 1 LLJ 8-4. This was a case where the point taken was that no dispute relating to the reinstatement of a worker had been raised by the workmen before the reference was made by the Government for adjudication before a Tribunal. His Lordships observed—

"If no dispute at all was raised by the respondent with the management, any request sent by them to the Government would only be a demand by them and not an industrial dispute between them and their employers A mere demand to a Government, without a dispute being raised by the workmen to their employer cannot become an industrial dispute. Consequently the material before the Tribunal clearly showed that no such industrial dispute was purported to be referred by the State Government to the Tribunal, had ever existed between appellant corporation and the respondent, and the State Government in making a reference, obviously committed an error in basing its opinion on material which was not relevant to the formation of the opinion."

He also relied on the case of *Bharat Barrel and Drum Manufacturing Company (Private) Limited vs. Govindagopal Waghmare*, (1960) 2 LLJ 241. In that Case, the workmen had claimed four months' wages as bonus for the year 1959. The tribunal awarded five months' basic wages by way of bonus. In that context Wanchoo, J (as he then was) observed:—

"The first contention in this connection is that the workmen had only claimed 4 months' basic wages and the Tribunal could not have awarded anything more than what the workmen had claimed. This in our opinion is incorrect. The workmen had claimed 4 months' basic wages which the tribunal had allowed are admittedly less than the claim put forward (namely, 4 months' wages including dearness allowance). In the circumstances the tribunal certainly had jurisdiction to award what it has awarded to the workmen."

Mr. Sen contended that if the bonus awarded has been more than the claim made by the workmen, the Tribunal could not have awarded what the workmen had not claimed. This contention of Mr. Sen was sought to be repelled by Mr. Ram Murthy, learned Counsel for the workmen, as hereinafter indicated. He contended that the limitation pleaded by Mr. Sen, namely, that the workmen were not entitled to claim anything more than what had been recommended by the Wage Board was not sound, because there was no such limitation to be found in Schedule III of the Industrial Disputes Act and this Tribunal was competent to award what was proper. He contended, in the next place, that despite what was written in the strike notice (Ex. 88), Paragraph 34(b) of the written statement of Hindustan Times Limited contained an admission to the effect that the employees union had not accepted the recommendations of the Wage Board for non-journalists. Hereinbelow I set out paragraph 34(b):—

"Employees union has not accepted the recommendations of the Wage Board for non-journalists as such and they also wanted some modification. The reference, therefore, could be only in respect of the demand regarding the modifications to the Wage Board recommendations and not in respect of fairness or reasonableness of the assumed standard."

He, therefore, submitted that the propositions laid down by the Supreme Court (already referred to by me) were not applicable to the facts and circumstances of the instant reference. In my opinion, the acceptance by the workmen of the recommendations of the Wage Board was some sort of a grumbling acceptance. The attitude taken up by them was to get immediately as much as the Wage Board had given to them and to fight for more. Ex. 88 is an indefinite strike notice on the immediate issue of the non-implementation of the recommendations of the Wage Board, but the letter is not a document containing an admission that their charter of demand was de-limited to what was stated in the strike notice itself. The management also admitted in their written statement that the workmen were seeking for more than what had been recommended by the Wage Board and it is too late for the management now to contend that the workmen cannot bring up that industrial dispute before this Tribunal for adjudication. I, therefore, over-rule the first preliminary objection argued by Mr. Sen.

105. Mr. Sen contended, in the next place, that agreement, Ex. 86, between the Hindustan Times Ltd. and the Hindustan Times Employees Union dated December 27, 1963, it was agreed as follows:—

"1(a) The management agreed to pay interim relief to all employees including working journalists and officials equivalent to 10 per cent of their salary or wages per month as on November 1, 1963, inclusive of the *ad hoc* dearness allowance of Rs. 25/- (but excluding additional dearness allowance payable on the basis of the cost of living index) subject to a maximum of Rs. 30/- and a minimum of Rs. 15/- per month.

(b) The payment would be adjusted against the dues which may be payable to the employees as a result of final outcome of the decision of the Wage Board for the non-journalists staff which was going to be set up shortly."

He contrasted the above two paragraphs to the recommendations by the Wage Board in paragraph 4.29, page 47 of the Report, namely, "(1) for the purpose of fitment—(i) Relevant dates means—*** in the case of all others 1st July 1967, (ii) the present emoluments of a non-journalist shall mean his basic pay plus D.A. and the amount of interim relief payable to him immediately before the relevant date". Mr. Sen made the grievance that paragraph 4.29 gave very little scope to adjust whatever had been paid since 1963 as had been agreed upon. There are two infirmities in this argument of Mr. Sen. (i) The Wage Board was not bound by any agreement as between individual concerns and their workmen. The Board was called upon to make an industrywide recommendation and that they did and (ii) both paragraph 1(a) and (b) of Ex. 86 and paragraph 4.29(ii) at page 47 of the recommendation of the Wage Board may be harmoniously read because some sort of adjustment may be made after fitment. Alternatively, if the agreement need be strictly enforced, then the wages and the fitment may be made in accordance with the recommendations but the sums paid under the agreement may be deducted thereafter. I do not give this value to the argument of Mr. Sen that the Wage Board recommendations themselves became invalid because they did not provide for adjustments under private agreements between parties.

106. The third argument of Mr. Sen was that in the matter of fixation of wages, basic salary should have been taken minus interim relief. I do not realise, nor did Mr. Sen explain, how the Wage Board was fundamentally wrong in taking the definition of basic salaries as inclusive of interim wages, because at the point of time the award was made the workmen were enjoying certain interim reliefs for considerable time.

107. In his fourth argument Mr. Sen objected to the accelerated increments as recommended by the Wage Board. He submitted (i) that there was no evidence that past services had not been adequately remunerated, (ii) that the Wage Board overlooked that the past wages had been determined by an Industrial Tribunal award and must have been fairly determined and (iii) that the attempt on the part of the Wage Board was not to fix fair wages but to remunerate workmen for their past services.

108. Mr. Ram Murthy tried to repel this argument with the contention that the previous award had been terminated as far back as in 1965. Further, it was observed by the Supreme Court in the case of Hindustan Times (*supra*) that the previous tribunal had been "rather cautious in the matter of revision of wage scales". The wages have been subsisting for a long time and two increments granted was on the low side and should not be quarrelled with.

109 In his fifth argument, Mr Sen objected to the inclusion of non-workmen even in the group of non-journalists employees for the purpose of classification. For example, the Assistant Accountant was included in Group IV, Administrative staff. In support of this argument he relied upon Ext 91, in which an Assistant Accountant drawing Rs 485 as Wage and Rs 90 dearness allowance, total Rs 575 was included. He also relied upon Ex 104 which was a list of categories doing supervisory duties and getting more than Rs 500 per month, all included in the grouping of non-journalist workmen. He submitted that non-workmen non-journalist were not entitled to the benefits recommended by the Wage Board which were meant for workmen non-journalists.

110 Mr Ram Murthy did not contend for the proposition that persons who were not even workmen were entitled to the benefits. He submitted that an Assistant Accountant and a Press Foreman may be a workman when they were drawing less than Rs 500. He submitted that so long as the said categories of workmen who in time scale go up beyond Rs 500 drew less than Rs 500 would be entitled to the benefits of the recommendations of the Wage Board, he would remain satisfied. In this context he relied on a judgment of Supreme Court in *All India Reserve Bank Employees vs Reserve Bank of India*, (1965) II LLJ 175 at page 187, in which Hidayatullah, J (as His Lordship then was), observed

‘Further, the national tribunal was not justified in holding that if at a future time an incumbent would draw wage in the time-scale in excess of Rs 500 the matter must be taken to be withdrawn from the jurisdiction of the Central Government to make a reference in respect of him and the national tribunal to be ousted of the jurisdiction to decide the dispute if referred. Supervisory staff drawing less than Rs 500 per month cannot be debarred from claiming that they should draw more than Rs 500 presently or at some future stage in their service. They can only be deprived of the benefits if they are non-workmen at the time they seek the protection of the Industrial Disputes Act’

I consider the stand taken by Mr Murthy to be reasonable, I therefore hold that the categories objected to by Mr Sen, so long as they draw less than Rs 500 may be entitled to the benefits of the recommendations of the Wage Board, if not otherwise debarred.

111 Mr Sen argued in the sixth place that there were too many classifications made by the Wage Board. In elaboration he submitted that there were classifications made where not necessary and there was no classification made where necessary. He submitted that there was no principle behind the grouping made by the Wage Board and the re-grouping made by the Government of India suffer from the same defect. He relied upon a chart, Ex. 93, marked by consent which included list of categories mentioned in the recommendations of the Wage Board for non-journalist which did not exist in Hindustan Times and submitted that the recommendations of the Wage Board in so far as the above categories were concerned would not apply in the newspaper of Hindustan Times Limited. The grouping made by the Wage Board is unfortunate and has been target of attack both by the management and by the workmen. Mr Ram Murthy invited my attention to the following paragraph in the dissension note of Mr K. M. Mathew and Mr Narendra Tiwari

“This categorisation in different manner for different class of newspapers of an employees doing the same work will give rise to considerable dissatisfaction amongst drivers and hand-compositors. Drivers and hand-compositors should be equated with the same class of persons. Apart from our objection this unscientific clubbing, it is our view that the drivers and hand-compositors if they are to be placed in any group that should be group IV”

I shall deal with this aspect of the matter later on while dealing with the objection of all other newspaper establishments on this point.

112 In his next arguments Mr Sen regretted the abolition of efficiency bar. He adversely criticised the scales firstly, because of the fast rate of increment without efficiency bar, and secondly because the rise from the minimum to the maximum scale was not spread over at least to 20 to 25 years meaning thereby if workmen reached the maximum scale within 10 to 15 years, they would still be in the prime of their life with no prospect of increment. They would continue as disgruntled workmen thereafter. Thirdly because the recurring burden would almost be three times within a very short space of time.

113. Mr. Ram Murthy was not in favour of too many efficiency bars. He relied on paragraph 121.3 of the Sastri award on the industrial dispute between certain Banking companies and their workmen in which there was recommendations made for only one efficiency bar in the respective scales of pay at the end of 20th year of service. He further argued that if the job was such under which experience only earned promotion, there was no necessity of imposition of any efficiency bar. He also submitted that wherever there was a wage scale prescribed somebody must reach maximum in time scale and thereafter there was bound to be loss of incentive in him rendering him only a disgruntled workman. As to the complaint against recurring burden, Mr. Ram Murthy submitted that wherever there was a pay scale this was bound to happen and this nothing new in the recommendations in respect of non-journalists.

114. In his eighth argument Mr. Sen criticised the recommendations of the Wage Board that the gratuity scheme as applicable to Working Journalists, separate provisions contained in the Working Journalists (Condition of Service and Miscellaneous Provisions) Act, 1965 subject to the decision of the Supreme Court shall be applicable to non-journalist employees. He submitted:

- (a) that wage structure in Schedule I did not include gratuity.
- (b) working journalists and non-journalists stood on a different levels and one scheme of gratuity should be prescribed for both.
- (c) Supreme Court judgment to be delivered in gratuity matter would have to proceed on the interpretation of Section 5 of the 1965 Act, which would not apply to non-journalists and to make the provision of that Act applicable to non-journalist would not be fair when the legislature did not contemplate that.

115. Needless to say that Mr. Ram Murthy supported the recommendations of the Wage Board on the gratuity point because he said that the general gratuity scheme should apply *mutatis mutandis* both to journalists and non-journalists and what the Wage Board recommended was not the application of Section 5 of the Act 1955 to non-journalists but the application of the fair recommendation of the Supreme Court on gratuity point to the non-journalist as well. I shall deal with this point further later.

116. So far as dearness allowance was concerned, Mr. Sen criticised that the allowance was linked up with cost of living index and not with capacity to pay. In this context he invited my attention to paragraphs 4.25 and 4.26 of the recommendations of the Wage Board which I have hereinbefore quoted. Mr. Sen submitted that there was no reason behind the recommendation of revision at 50 paise per point as recommended in paragraph 4.26. According to Mr. Sen dearness allowance as recommended by Supreme Court in Hindustan Times case (supra) should continue.

117. Mr. Ram Murthy submitted that this recommendation was on the basis of 1939 cost of living index. He further submitted that the recommendation made in 1963 should not hold good today and strongly contended on the basis of the judgment of Supreme Court in Remington Rand of India Limited, 1962 I LLJ, 287 that this Tribunal should revise the rates of dearness allowance after taking into consideration all the relevant factors such as the rates of dearness allowance paid to the workmen in comparable concerns and the financial capacity of the company to bear the additional burden imposed by the increase in dearness allowance. I shall refer to this aspect of the matter later on.

118. In his last argument Mr. Sen emphasised upon the fact that the Hindustan Times Limited had not the capacity to pay. He relied upon Ex. 94 and 95 being charts of the projected burden of the two Wage Board recommendations and submitted that it would amply appear therefrom that the total burden on the Hindustan Times Limited in the first year will be Rs. 11,30,000 and in the 11th year Rs. 38,90,000. He submitted that the burden was of a crushing nature. The income of Hindustan Times could not bear it. He further submitted that the burden did not consider rehabilitation expenditure as shown in Ex. 103 and suggested that fair wages should have been fixed according to the principles laid down by the Supreme Court in Associated Cement Company's case, 1959 I LLJ 644.

119. Mr. Ram Murthy submitted that profit consideration was irrelevant in the context of settlement of fair wages. He also submitted that depreciation and rehabilitation costs should not over-ride the consideration for fixation of fair wages. He lastly submitted that the principles in Associated Cement Company's case 1959 I LLJ 644 were absolutely irrelevant in the fixation of fair wages because in the matter of fixation of bonus the legitimate claims of the industry and

its shareholders were to be taken into consideration but not so in the case of fixation of fair wages. In support of this argument he particularly relied upon the observation of the Supreme Court in the case of Standard Vacuum Refining Company of India Limited, 1961 I LLJ 227 (241). Mr. Ram Murthy painstakingly analysed the accounts of the company and very strongly urged that the Hindustan Times Limited had the capacity to pay. I shall have to further deal with this aspect when making my award.

This is in short the summary of the pleadings, evidence and arguments. I shall make my award in respect of this newspaper establishment later on.

X

The Newspaper Establishment of Bennett Coleman & Co. Ltd.

120. I now next take up the case of Bennett Coleman & Co. Ltd., which is the largest newspaper establishment in India. This establishment admittedly publishes the following papers:

From Bombay

- | | | |
|---------------------------|------------------------|--------------------|
| 1. The Times of India | (English daily). | |
| 2. Navbharat Times | (Hindi daily). | |
| 3. The Economic Times | (English daily). | |
| 4. Maharashtra Times | (Marathi daily). | |
| 5. Evening News | (English daily). | |
| 6. The Illustrated Weekly | (English weekly). | |
| 7. The Dharmayuga | (Hindi weekly). | |
| 8. The Film Fare | (English fortnightly). | |
| 9. The Parag | (Hindi monthly). | |
| 10. The Sarika | (Hindi fortnightly). | |
| 11. The Madhuri | (Hindi fortnightly). | |
| 12. The Indrajal Comics | (English). | } All fortnightly. |
| 13. The Indrajal Comics | (Hindi). | |
| 14. The Indrajal Comics | (Marathi). | |
| 15. The Indrajal Comics | (Gujarathi). | |
| 16. The Indrajal Comics | (Tamil). | |
| 17. The Indrajal Comics | (Bengali). | |
| 18. The Science To day | | |
| 19. The Femina | (English fortnightly). | |
| 20. The Times of India | (Annual). | |

From Delhi

- | | |
|-----------------------|----------------------|
| 1. The Times of India | (English daily). |
| 2. Navbharat Times | (Hindi daily). |
| 3. Dinamana | (Hindi fortnightly). |

There was a written statement filed on behalf of the Bennett Coleman & Co. Ltd., proprietors of Times of India group of newspapers at Bombay and Delhi. In paragraph 2 of the said written statement, five preliminary objections were taken, which I set out in the language pleaded:

- (i) The Notification dated 17th September, 1968 which the Central Government has purported to make the order of Reference under Section 10(1A) of the Industrial Disputes Act 1947 (hereinafter referred to as the Act) is void *ab initio* and/or at any rate in excess of the powers of the Central Government inasmuch as section 10(1A) can only be invoked in cases where any Industrial Disputes as envisaged under the Act, exist. The company states and submits that the first recital to the Order of Reference mentions that a dispute exists between the employers and their workmen whereas no valid dispute within the meaning of section 2(k) of the Act has in fact been raised by the workmen.
- (ii) The manner and language of the schedule to the Notification, which sets out the terms of the Reference postulates the validity and soundness of the Wage Board Recommendations leaving only the question of implementation to the Tribunal. In the submission of the company, the dispute, if any, was not in respect of the implementation of the recommendation; but it was in regard to the recommendations themselves as being entirely unacceptable being arbitrary, capricious and

unrealistic and against well settled principles of industrial law in the matter of wage fixation, apart from being unenforceable at law.

- (iii) The Wage Board having no statutory sanction or authority of law, its recommendations have no binding power and are merely recommendatory in character. The company states and submits that in so far as the Order of Reference presumes that the recommendations are binding on the parties and that the only question before the Tribunal is regarding their implementation, it is bad and this Hon'ble Tribunal has no jurisdiction to adjudicate upon it.
- (iv) The second recital in the Order of Reference makes a reference of the employers Agreement with the Federation to pay 70 per cent and then 75 per cent of the difference, as being guaranteed to the workmen regardless of the outcome of this Reference and then proceeds to set out the terms of reference in the Schedule to the Order.
- (v) In the submission of the company, this part of the recital restricts the scope of the Reference to the detriment of the company, in so far as it appears to limit or restrict the powers of the Tribunal to decide only whether anything in excess of the said 75 per cent difference, should be awarded and not less. In the submission of the company, such a Reference as worded in the aforesaid manner would mean that it is not an open Reference of a normal dispute, but a restricted Reference which could conceivably be interpreted as rendering the Tribunal incapable of making an award on the merits without being hampered by the addition of 75 per cent of the said difference to the existing wage structure prevailing in the company. It is the submission of the company that the existing wage structure without addition of 75 per cent of the difference is adequate, just and fair having regard to all the relevant circumstances of this case,****.

Without prejudice to the preliminary objections, the company pleaded as hereinafter indicated. In paragraphs 4 to 10 of the written statement there was a succinct statement of the historical background leading to the recommendations by the Wage Board for non-journalist employees.

121. In paragraph 11 of the written statement it was pleaded that the newspaper industry, including the Bennett Coleman & Co. Ltd., found that the recommendations of the two Wage Boards (one for the Working journalists and one for non-journalists) placed a very heavy financial burden upon newspaper establishments which was beyond capacity to bear. In paragraph 13 of the written statement, it was pleaded:

"The Recommendations of the Wage Board for Non-Journalists employees were not statutorily binding upon the Newspaper Establishments and the Government had requested the Newspaper Establishments to implement them. However, since the said recommendations were totally unacceptable to the Newspaper Industry including the company, they did not implement the same. It is submitted that the company was not bound to and cannot be compelled to implement the said Recommendations of the Wage Board for Non-journalists employees."

In paragraph 14 of the written statement it was *inter-alia* admitted that the working journalists of the company at Bombay numbered about 386 and at Delhi about 168 and the total number of non-journalists employees including managerial and supervisory staff at Bombay numbered about 1800 and at Delhi about 725. Paragraphs 17 to 19 contain the general comments on the recommendations of the Wage Board for non-journalists employees. In paragraph 18, it was specifically pleaded that Central Government failed to carefully consider the recommendations of the two Wage Boards before accepting the same. In paragraph 19 it was pleaded:

- (i) that the Wage Board failed to appreciate and take into consideration the basis and the mandatory provisions of wage fixation as laid down by the Supreme Court and also failed to take into consideration the capacity of the industry to pay the wages recommended by them
- (ii) the Wage Board also failed to take into consideration the regional factors which it was bound to consider in fixing rates of wages.
- (iii) the Wage Board failed to consider the industry-cum-region basis for fixing rates of wages.
- (iv) the Wage Board failed to take into consideration a fair cross-section of the industry in making its recommendations.

- (v) in making its recommendations for classification of newspaper the Wage Board adopted a wrong and unscientific basis and defined gross-revenue in a manner which was unrealistic.
- (vi) it also failed to give due weight to the need of proper proportion of Advertisement Revenue in Gross Revenue for the purpose of classification.
- (vii) it failed to appreciate that gross-revenue was no criterion of the profitability of a newspaper establishment or its capacity to pay.
- (viii) the Wage Board completely over-looked the other provisions the industry has to make for rehabilitation or future expansion and a reasonable return on investment before determining as to what amount of the available profits were justifiably to be paid as additional wages.
- (ix) the Wage Board ignored the existing trade practice and the prevailing conditions in the industry.
- (x) the Wage Board failed to make any job evaluation or to take into consideration the important factor of productivity.
- (xi) the Wage Board failed, apart from its failure to take into consideration the essential factor of capacity to pay, to take into consideration the prevalent rates of wages for comparable employment; the scales of pay recommended by the Wage Board were extremely excessive both in minimum and maximum as also in wage differentials which were too stiff and disproportionate.
- (xii) the calculation by the Wage Board of the recurring burden was made only with reference to the first year of operation and no attempt was made to assess the additional burden in successive years.
- (xiii) the Wage Board did not take into consideration the consequential increases which will have to be borne by the newspaper establishments for payment of gratuity, employers' contribution to Provident fund, Employees' State Insurance, Bonus, Leave benefits, etc. which would easily add up to 25 percent over and above the burden sought to be imposed by the rates of wages.
- (xiv) the recommendations for settlement made by the Wage Board were wholly unnecessary and contrary to established practice and principle.
- (xv) the recommendations to link up dearness allowance with the cost of living index was readily rejected by the Wage Committee for cogent reasons, put a very heavy financial burden on newspaper establishments.

In paragraph 20 of the written statement the classification of newspapers were condemned in the following language:—

"For the purpose of classification of newspapers, the Wage Board has accepted the basis of Gross Revenue and has divided the Newspapers in a "Group", "Multiple Unit" and "Chain". It is submitted that Gross Revenue is not a proper and reliable basis for classification of newspaper and to assess their capacity to pay. It is only gross profit after making adequate provision for reasonable return on investment, depreciation, rehabilitation, future expansion and other relevant provisions which can be considered to be a satisfactory guide to assess the capacity of the establishment to pay its employees. There are numerous newspapers whose Gross Revenue may also be increased for various reasons without any corresponding increase in profit. By sheer increase in Gross Revenue without any corresponding increase in profit, a newspaper will automatically be placed in a higher class under the Wage Board recommendations, making it compulsory for it to pay the Wages of a higher class which would be beyond its capacity to pay."

In paragraph 23 it was pleaded that the Wage Board unjustifiably and without any cogent reason changed the basis of classification of newspapers and definition of gross revenue with the result that numerous newspapers, particularly those in group, multiple unit and chain, have to be wrongly placed in higher class with consequent liability to pay the wages of such classes. In paragraphs 24 and 25, the grouping to non-journalists was condemned in the following language:—

"24. **It is submitted that the groupings and categorisation of employees made by the Wage Board for Non-journalists are wholly unscientific

and unreal and impracticable. It has totally ignored the local conditions, existing groupings and categorisation in the newspaper industry and in comparable concerns. The groupings and categorisation recommended by the Wage Board create numerous anomalies and will lead to more industrial unrest and bickerings in the staff. No effort was made by the Wage Board to make any job evaluation which is fundamental in making any categorisation of employees. The Wage Board has also failed to take into consideration the essential factor of productivity in making its recommendations. There was no justification for disturbing existing categories and creating confusion***

25. **The Wage Board for Non-journalists does not appear to have applied its mind at all to the problem of scientific grouping and non-journalist employees based on job evaluation, productivity and other relevant factors and made groups and created categories arbitrarily and irrationally."

The wage scales and groupings recommended by the Wage Board were condemned as excessively high and unrealistic and in paragraph 28, it was pleaded:—

"28. It is submitted that a realistic wage determination for non-journalist employees of newspaper establishments could be made only if wages are fixed for the entire Printing Industry and after taking into consideration regional factors and comparable employments. It will be unfair to newspaper establishments to fix very high rates of wages for their Non-journalist employees compared with the rates of wages in the same region and for comparable employment and this would also disable the newspaper establishments from competing with other Printing Presses for Job work, which will be a grievous loss to newspaper establishments.***"

Paragraph 29 contains the condemnation of the company on the point of recommendations as to dearness allowance in the following language:—

"29. ***It is submitted that there was no justification for linking dearness allowance with the consumers Price index. The Wage Committee, after careful consideration and after giving cogent reasons, rejected the demand to link dearness allowance with the Consumer Price Index and this linkage is particularly wrong when high scales and grades are fixed for the employees. Moreover, there was no justification to take the Index Number for the year 1965 as base for the revision from 1st January, 1968. The Index Number should have been of 1967 or in any event of 1966. It is well known that the Index Number of 1965 is higher by about 20 points over 1966. This would mean that from 1st January 1968, each employee would be entitled to be paid more than Rs. 20 per month as increase in D.A. Moreover, the rates of revision, namely, 50 paise per point is excessively high and arbitrary. Further, there is no justification for 100 percent neutralisation which is rarely granted, particularly in case of higher paid staff because in their case there is no such compelling necessity for full neutralisation***

Paragraph 30 contains condemnation as to the recommendations for gratuity couched in the following language:—

"30. There was no justification for the Wage Board to apply the Gratuity Scheme as applicable to Working Journalists to all the Non-journalist employees. The special benefits conferred upon the Working Journalist under Act 45 of 1955 are highly excessive and unreasonable and in fact the Working Journalists have been treated as favoured class. There is no other class of employees in the country for whom such a legislation has been enacted."

The recommendations of the Wage Board regarding fitment were characterised as basically unfit because it put a very heavy financial burden on newspaper establishments. It was submitted that the recommendation to give the increment for each 5 years of completed service was necessary, in case of employees who are on proper incremental scale of pay. In paragraph 32 it was stated:—

"32. ***The Wage Board has been resorted to the magic formula of tightening up the organisation, without indicating how that can be done. The Wage Board appears to have relied upon statements of interested witnesses whose veracity was not tested by cross-examination or

without any opportunity to the Employers to test the veracity thereof. The Wage Board has failed to take into consideration that the newspaper industry, unlike other industries, cannot pass on to the consumer all its burden and there is a limit beyond which the price of the newspapers cannot be increased. Consumer resistance defeats price increase by decrease in circulation and consequent decrease in advertisement revenue."

In paragraphs 34 to 41 it was pleaded that the management was not in a financial position to bear the increased burden at all. The heaviness is exemplified in the following language in paragraph 41 of the written statement:—

"41. Under the Government Order dated 27th October, 1967, the recommendations of the Wage Board for Working Journalists are required to be implemented from 1st January, 1967, in the case of daily newspapers falling in classes I, II or III. The Company has implemented from 1st April, 1968. The Recommendation of the Wage Board for Non-Journalists employees according to the Government Notification dated 18th November, 1967, have to be implemented from 1st July, 1967. The Company has paid its Non-Journalists Employees 70 percent of the difference between their existing emoluments as on 1st January, 1968 and those that they would have been entitled to under the Wage Board Recommendations from 1st January, 1968 and 75 percent from 23rd September, 1968. If the Company is compelled to pay the full emoluments to the Non-Journalists employees in accordance with the Wage Board recommendations from 1st July 1967, the financial burden of arrears upto 31st December, 1967 will amount to about Rs. 7 lacs. There will be further burden for the year 1968 as the Company has paid 70 per cent and 75 per cent of the difference as mentioned above, if all the recommendations of the Wage Board for Non-Journalists employees have to be fully implemented. The annual recurring burden for implementing the recommendations of the Wage Board for full time Working Journalists would amount to about Rs. 15,000 and annual recurring burden for implementing the recommendations of the Wage Board for Non-Journalists covered under the Wage Board recommendations would amount to Rs. 14 lacs. This annual burden would go on increasing every year on account of the annual increments to be granted and such annual recurring burden for employees covered under the Wage Board will be about Rs. 3½ lacs. This burden will still increase if there is any rise in the Cost of Living Index which will escalate the dearness allowance payable to the employees. This final burden for wages and dearness allowance is apart from the financial burden upon the Company on account of the provident fund, bonus, gratuity, leave and other benefits which easily add upto 25 percent of the total wage bill. The Company has not paid to its Working Journalists and Non-Journalists employees, interim relief recommended by the two Wage Boards as aforesaid. The question of payment of interim relief to Working Journalists is the subject matter of Writ Petition No. 286 of 1965 referred to above pending before the High Court at Bombay. The question of payment of interim relief to Non-Journalists is the subject matter of Reference No. 4 of 1968 referred to above, pending before the National Tribunal Bombay. Such Interim Relief to Working Journalists and Non-Journalists according to the recommendations of the two Wage Boards is payable from 1st May 1964. If the Company is compelled to pay such Interim Relief to Working Journalists, the Company will have to pay about Rs. 3,12,000 for the period 1st May 1964 to 31st December, 1966. If the Company is compelled to pay Interim Relief to its Non-Journalist employees, the Company will have to pay about Rs. 9,77,000 for the period 1st May, 1964 to 30th June, 1967. There is also pending before the National Tribunal the question about the payment of wages to workmen (Non-Journalist employees) for the period of strike and lock-out from 17th February, 1967 to 26th March, 1967. If the Company is compelled to pay such wages, the Company will have to pay about Rs. 9,50,000. The Employees Union in the said Reference has contended that the demand for wages for the strike and lock-out period also covers Working Journalist employees of the Company. If that contention is upheld and the Company is compelled to pay wages for the strike and lockout period also to the Working Journalists employees of the Company, the Company will have to pay a

further sum of about Rs. 5,70,000. It is submitted that it is entirely unreasonable to place such heavy financial burden upon the Company only for the wages of the employees.

In paragraphs 42 and 43, it was stated that the Job and Process departments at Bombay and Delhi handled commercial printing work for outside parties. They maintain separate accounts, utilise separate machinery and have separate stall. Further, the job and Process departments of the company at Bombay and Delhi are not covered by the recommendations of the Wage Board for non-journalists employees. In paragraph 49 of the written statement it was stated that the reference can cover only such non-journalists employees as are workmen under the Industrial Disputes Act and the Tribunal has no jurisdiction to make any award in relation to other Non-Journalist employees who were not workmen under the Industrial Disputes Act.

122. This is the rapid summary of the long written statement filed by the Bennett Coleman and Company Ltd. There are a number of Annexures attached to the written statement to which I need not refer at this stage.

123. I need remind myself that the reference in respect of the Bennett Coleman and Company Limited and their workmen had at first covered only one of their publications, namely, The Times of India, Bombay and Delhi. This was later on amended on February 12, 1969 by addition of another newspaper called Navbharat Times, Bombay and Delhi. Lastly, on March 7, 1969, there was a fresh reference made in respect of Bennett Coleman & Co. Ltd., covering in addition to Times of India, Evening News of India, Maharashtra Times (Bombay), Navbharat Times (Bombay), Illustrated Weekly, The Dharamayuga, The Dinamana, The Film Fare, The Famina, The Parag, The Sarita, The Madhuri, The Indrajal Comics (English), The Inrajal Comics (Hindi), The Indrajal Comics (Marathi), The Indrajal Comics (Gujarathi), The Indrajal Comics (Tamil), The Indrajal Comics (Bengali), The Science To-day, The Times of India (Annual). The fresh reference included another subject matter of adjudication which had not been included in the first one, namely, "whether any other categories of non-journalists employees in the establishment stands excluded from the recommendations of the Wage Board, and if so, which those categories are and what wage structure for such categories should be?"

124. After the amendment, Bennett Coleman & Co. Ltd. filed another written statement on June 26, 1969, which is more or less the reproduction of the first written statement excepting in following respects.

125. In paragraph 3 of the new written statement, there was another preliminary objection taken to the following effect:—

"3. By an Order dated 7th October, 1968, under subsection 1A of section 10 of the Industrial Disputes Act, 1947, the Central Government purported to refer an alleged industrial dispute to this Hon'ble Tribunal between the employers and the workmen in the Times of India at Bombay and Delhi. The said Reference has been numbered Reference No. 2 of 1968 before this Hon'ble Tribunal. By another Order dated 5th December, 1968, the Central Government purported to amend the said Order dated 7th October, 1968 by making an addition to the Schedule to the said Order by adding the matter in the said Schedule. The said Reference was heard by this Hon'ble Tribunal. Both parties led their evidence and made their submissions and the hearing concluded on 21st February, 1969 and it only remained for the Hon'ble Tribunal to make its Award in the said Reference. Thereafter, the Company received an Order made by the Central Government dated 13th February, 1969 purporting to amend the said Order of Reference dated 7th October, 1968 by adding one more dispute between the Employers and the Workmen in Navbharat Times at Bombay and Delhi. Thereupon, the said Reference was further argued before this Hon'ble Tribunal on 13th May, 1969 and the hearing of the said Reference No. 2 of 1968 as amended by the said Order dated 13th February, 1969 concluded. The Central Government has now made this Order of Reference dated 7th March 1969 which also includes the Times of India and Navbharat Times and their workmen. The Company submits that the manner in which these Orders have been successively made shows totally non-application of mind and lack of due care and consideration. The Company submits that the said Order dated 7th March, 1969, has been made arbitrarily and capriciously and is bad in law and void."

Paragraphs 4 to 47 are more or less reproductions of earlier written statements. In paragraph 48, the third item of the Schedule of the last made reference was considered in the following language. —

"48. The company submits that the groupings and categorisation of Non-Journalists newspaper employees done by the Wage Board is entirely wrong and unrealistic and is contrary to the traditional categories and the company submits that there is no reason to disturb the existing categories of Non-journalist employees in the employ of the company. The question, therefore, whether any other categories of Non-journalists employees stand excluded from the recommendations of the Wage Board, is, in fact, hypothetical and academic. The company submits that the Hon'ble Tribunal should accept the existing categories of Non-journalist employees employed by the company. There are differences nomenclature and functions in the categories and groupings as recommended by the Wage Board for Non-Journalist employees and in the categories as existing in the newspaper establishment of the company. It may be said that some categories existing in the company are not mentioned by name as such in the groups of categories mentioned in the Wage Board Report whereas the Wage Board has created several categories which are unnecessary and do not exist in the company.***"

The rest of the paragraphs of this written statement are merely rejoinders to the written statement filed by the workmen.

126. There was a statement of claim filed by the Times of India and Allied Publications Employees Union, Bombay and Bennett Coleman and Co. Ltd. Employees Union, New Delhi, on behalf of the workmen in the dispute, on December 12, 1968. This statement is a sizeable one and hereinafter I give a summary thereof. In paragraph 4 to 8 of the said statement, is contained a short resume of the growth of Bennett Coleman & Co. Ltd. as a leading newspaper publishing house and how the company passed away from the hands of the Britishers to the hands of different Indian industrialists. In paragraph 9 of the said statement, it was stated:—

"A close analysis of the balancesheet and profit and loss accounts of Bennett Coleman & Co. Ltd., from 1948 to 1956 will clearly show that the revenue and turnover of the Company was doubled but the working results are shown to have deteriorated and profits dwindled."

Paragraph 11 contains the list of publications of Bennett Coleman & Co. Ltd. and in paragraph 12 it is stated that the Times of India, the daily newspaper of the company, has the largest readership. In paragraph 15 of the said statement it is said. —

"The Unions submit that, in respect of size, structure and profits, this Company holds a unique position in India's press industry and it cannot be compared with any other unit either in the city of Bombay or in any part of this country. The Unions further submit that since 1959, the Company has made rapid progress in its financial position.***"

Paragraphs 16 to 19 deal with the prosperity aspect of Bennett Coleman & Co. Ltd. and it is particularly stated in paragraph 18:

"The financial progress of the company can be judged from the increasing revenue for the past ten years. Both in respect of the circulation of its newspapers and periodicals, advertisement revenue and income from the job work undertaken by the press the company has been earning more and more year by year."

Paragraphs 21 to 39 contain a history of the national wage policy and the setting up of Wage Boards to determine fair wages for particular industry, including the newspaper industry, and the summary of the Report of the Central Wage Board for non-journalists of newspaper industry as accepted by the Government. In paragraph 40 of the said statement it is stated that whereas small newspapers in every part of the country implemented the recommendations in full, the newspapers particularly classes I to III did not implement them. Paragraph 41 contains description of the trouble that followed in the news industry leading to the reference of the dispute to the National Tribunal. In paragraph 44 it has given a description of how and when the different newspapers of Bennett Coleman & Co. Ltd. were started and the progress some of them made. Paragraph 45 contains a statement of the circulation figures and the revenue figures between the years 1958 to 1967.

127. According to the workmen, as they say in paragraph 47 of the said statement, not only Times of India Group of Newspapers, but the entire newspaper industry in the country as a whole has been doing extremely well and in this context they refer to certain observations from the Report of the Commission on Distribution of Income and Wealth and Concentration of Economic Power and also from the Report of the Monopoly Commission. In paragraph 51 it is stated that in the background of the prosperity of the company the existing service condition prevailing in this group of newspaper were settled by award of an arbitrator given as far back as in the year 1962. Thereafter, in paragraphs 53, 54 and 55 they state as follows:

"53. The Unions state that as compared to the Times of India Group of Newspapers, very small concerns in size have been paying substantially higher minimum wage to their employees in the City of Bombay and Delhi.

54. The Unions further state that from the minimum wage paid to the employees in this Company it will be seen that the lowest paid employees are not given 100 per cent neutralisation and the rate of neutralisation which is given to the workmen at the lowest level works out to 77 per cent.

55. The Unions further state that with this low rate of neutralisation workmen have been kept in this 'A' class newspaper for the last six years despite the fact that during these six years the Company's financial position improved substantially in every respect. * * *

In paragraph 56. they make a grievance that this prosperity was not transmitted in improving the conditions of the workmen and in subsequent paragraphs they illustrate this grievance in the following manner:

(a) Since the enactment of the Payment of Bonus Act, the quantum of bonus was substantially reduced (Paragraph 57).

(b) The present dearness allowance scheme prevailing in the company was framed in the year 1962 when the Bombay Working Class Cost of Living Index was in the range of 421 to 430. Due to unprecedented rise in price of necessary commodities the index reached the range of 741 to 750. Nevertheless the rate of neutralisation given to the workmen and that to the low paid employees remained unchanged (Paragraph 58).

(c) While this was the condition of workmen, the shareholders of the company were given a very fabulous and royal treatment (Paragraph 60).

(d) Similar royal treatment regarding wages were accorded to some of the Directors and Officers of the company (Paragraph 63). In paragraph 71 it was stated:

"The Unions therefore state that the recommendations of the Wage Board which are made applicable to the Workmen of this Company should be in the background of these conditions."

Dealing with the recommendations of the Wage Board so far as item 1 in the Schedule to the Reference was concerned, the workmen stated:

"75. ***the Wage Board is the proper machinery for fixing wages.***

76 *** that the recommendations of the Wage Board are fair and reasonable and should not be normally disturbed"

So far as the grouping of the non-journalists were concerned. it was stated in paragraph 81 as follows:

"81. *** It is, therefore, submitted that the recommendations of the Wage Board on the question of groupings of the non-journalists, particularly so far as the press staff is concerned being unanimous cannot be considered to be unfair and unreasonable"

Thus far about the support lent to the recommendations of the Wage Board. The workmen, however, went further and stated in paragraph 82 of the written statement as follows:

"82. The Unions state that as a matter of fact the recommendations of the Wage Board on the question of quantum of wages on the whole are much lower than the demand made by the employees and these Unions through the All India Newspaper Employees' Federation which represented these two Unions and the workmen of the Times of India

Group of Newspapers before the Wage Board. The recommendations made by the Wage Board on the whole are far below the expectations of the workmen, and they are as compared to the wages paid for similar occupations are also on the lower side."

In paragraph 84 of the written statement it was further stated:

"*** Today the gross revenue of the establishment of the Times of India group of newspapers is near about 8 crores of rupees. This being the position it is certainly unfair to except the newspaper employees working in the Times of India Group of Newspapers to receive a salary of those fixed for Group No. 1. To this extent the recommendations of the Wage Board can be considered to have been unreasonable since they are not based on facts and are not based on any evidence before the Wage Board."

The irregularities committed by the Wage Board in making its recommendations are summarised in paragraphs 110 to 119 as follows:

(a) Many of the recommendations are opposed to well settled principles of industrial law and practice prevailing in the newspaper industry all over the country.

(b) While recommending the wage structure for the non-journalist employees, the Wage Board rightly divided the newspaper industry into sub-classes. The Wage Board however carried the principle too far and committed much irregularities and created a situation which was never expected of the Wage Board.

(c) The wages in an industry should be fixed on the basis of industry-cum-region taking into consideration a fair cross-section of the industry. Instead of following that principle in its letter and spirit, the Wage Board with absurdity divided a house of newspaper into sub-divisions instead of relying on the fair cross-section of the industry and created a funny and ridiculous situation.

(d) The Wage Board was also in error in creating two classes of wages in a newspaper house in respect of employees working in Delhi newspapers and created seven classes of wages in respect of workmen working in periodicals in one single newspaper house.

(e) The Wage Board, in making its recommendations of sub-dividing the newspaper into several classes, totally ignored the fact of realities existing in the newspaper industry not only in the city of Bombay but all over the country. The Wage Board failed to notice the salutary principles established by award of earlier Tribunals.

(f) While making the classes of newspapers in a group of newspapers, the Wage Board did not take into consideration the existing wages paid in those concerns to the employees.

(g) The recommendations regarding sub-classification of a newspaper house was done by the Wage Board without any cogent, lawful and justifiable reason.

(h) The recommendations, apart from the fact that they will immediately reduce the existing wages of several workers in the Times of India group, working on different publications, will create administrative problems, organisational problems and constant friction between employers and employees on the one hand and between employees and the employees on the other. Due to the uniformity of wage structure prevailing in this organisation there is a mobility of labour from one section of composing to another section of composing. If the wage structure differs from one composing section to another composing section on the strength of the revenue of individual newspaper that mobility as it exists to-day will become difficult from administrative point of view and also from the labour point of view.

(i) The recommendations fixed the wages of the clerical and subordinate staff are contrary to the principles settled by the Supreme Court *vide* case of French Motor Car Co. Ltd. (supra) and Greaves Cotton Group of Companies (supra). It is well settled that categories of clerical cadre and subordinate staff such as, peon, watchman, sweeper, driver, liftman, etc. in any industry are the common category. They have nothing to do with a particular industry. A clerk is a clerk whether he works in oil company or an engineering or chemical concern or with an import-export business. Same is the position of the subordinate staff. While fixing the wages of these categories the wages should not be on the basis of industry as such but on the basis of the region as such.

128. In paragraph 127 the claim of the employees were couched in the following language:

"The Union, therefore, prays that this Hon'ble Tribunal should be pleased to construct such wage structure which should be very much higher than the one recommended by the Wage Board for the "A" class newspapers on the ground that financially the Times of India Group of Newspapers is to a very great extent above "A" class newspapers. It has resources and capacity to pay very much higher wages than those recommended for "A" class newspapers"

Paragraph 128 onwards deal with the second item of the Schedule, namely, the Job Department and the Process Department. In paragraph 128, it is stated that Bennett Coleman & Co. Ltd., has a Job Department consisting of three sections, namely, (i) Composing Department, (ii) Machine Department and (iii) Binding Department and Job office. In the Composing department, a matter which is meant for printing is composed and in the Machine Department the matter is printed and in the Binding department stitching, cutting, wiring and all other jobs were done. The Job office looks after the working of these departments. In paragraph 129, there is a description of what is done in the Process department and it is stated that the Process department of the company is the department where all the pictures which appear in the newspaper are processed. At the end of paragraph 129 it is stated:

"So long as Times of India Group of Newspapers decide to give pictorial reports and news in their newspapers, it must have as a dire necessity a Process Deptt. Therefore, it is not only absurd, but it is malafide to say that Process department does not form part of a newspaper."

Paragraph 131 gives a description of some of the jobs done by the Job department

- (i) They print the entire printing work of the company such as its ledger books, receipt books, letter heads, circulation labels and the entire printing which is required to run the business of a newspaper house.
- (ii) All books of accounts, receipt books, vouchers which are used in the business of the company are printed in the Job Department of the company
- (iii) The entire literature which is sent to the advertisers and to the newspaper agents to be published is printed in the Job department of the Company.
- (iv) All the papers which are used in the departments in connection with the business of the newspaper are printed in the Job department.
- (v) Complete composing, printing and binding of the two main publications of the Times of India, viz. Times of India Annual and Times of India Directory and Year Book

From paragraph 132, it is necessary to notice the following extract:

"Besides these, the Machine Department and the Binding Department are directly concerned with printing and binding of several newspapers and periodicals of the company. Printing of "Indrajal Comics" and "Science To-day", is done in the Machine Department of the company which is considered to be a portion of the Job Department. Cutting and stitching of "Sarika," "Parag," "Science To-day," "Indrajal", etc. are done in the Binding department. It is said to be a part of the Job Department. Thus it will be seen that actual printing and binding of the company's some of the newspapers are also done in the so-called Job department of the company. In Delhi the complete printing, binding, stitching and wiring of the company's periodical "Dinaman" is done in the Machine Department and the Binding Department of the so-called Job Department. Thus it will be seen that both in Bombay and Delhi, the so-called Job Department is engaged in direct printing and publication of a newspaper"

In paragraph 136, it is stated:

"It is submitted that besides these in the Job Department the company do undertake some outside jobs which are also essentially the job of newspapers though it may not be the newspapers belonging to

Bennett Coleman & Co. Ltd. The following are the magazines (news-papers) which are printed, composed and bound in the so-called Job Department of the company:

Burmah-Shell Journal.

Stanvac Journal.

Concrete Journal of the Associated Cement Co.

Agfa Journal.

Bulletins of Glaxo Laboratories, Reserve Bank of India, etc."

In paragraph 140 there is a demand that the wage structure for the employees in this department should be fixed by the Tribunal. Alternatively it is stated in paragraph 146:

"It is submitted that when the other newspapers before this Honourable Tribunal started paying 70 per cent of the Wage Board recommendations with effect from 1st January 1968 as a result of the 23rd April 1968 agreement they started paying the same amount to their job department employees in their respective presses. It is only the Times of India management which has taken unrealistic, unreasonable and mala fide stand that the job departments are excluded from the purview of the recommendations."

They further state that if the tribunal comes to the conclusion that the job department is not included in the recommendations of the Wage Board, there is every justification to fix a similar uniform wage structure for the employees working in the Job department of reasons stated in the said paragraph. This is in short a summary, however rapid it may be, of the sizeable written statement filed on behalf of the workmen.

129. After the workmen of Bennett Coleman & Co. Ltd. received a copy of the statement filed by the Bennett Coleman & Co., they filed a rejoinder which was directed to be placed on record on January 8, 1969. The said rejoinder contains the demurrer of the workmen in respect of the preliminary and legal objections raised by the management and also contains paragraph by paragraph denial and non-admissions of the case pleaded by the management. The said rejoinder is argumentative in nature and I need not summarise the same for the purpose of this award.

130. The workmen as represented by the Bennett Coleman & Co. Ltd. Employees Union, representing the Delhi publications, filed a separate written statement. There is not much in the said written statement which are new. Hereinbelow I set out paragraphs 9, 10, 11 and 12 from the said written statement:

- "9. The union draw the Hon'ble Tribunal's attention the fact that for the past many years, employees of the Delhi and Bombay offices, including the Job and Process employees, have been enjoying uniform pay-scales, D.A. and service conditions.
10. The union submits that the Job and Process employees are part and parcel of the Bennett, Coleman & Co. Ltd., and that they have been enjoying the same pay-scales, Dearness Allowance and service conditions as enjoyed by other employees.
11. That the categories of employees in the Job and Process sections are mentioned clearly by the Wage Board and pay-scales recommended for them.
12. That the company also preferred a strange argument that the Delhi Edition of the Nav Bharat Times, the head office, was in Class III while Bombay Edition of Nav Bharat Times was in Class II."

In other respects the said written statement adopts the written statement filed by the Times of India and Allied Publications Employees Union which I have already dealt with. This will appear from paragraphs 25 and 27 of the written statement by the Employees Union.

131. After the Government of India had made a fresh reference in respect of Bennett Coleman & Co. Ltd., the Times of India and Allied Publications Employees Union, Bennett Coleman & Co. Ltd. Employees Union filed a statement which they wanted to be treated as the supplementary statement to the original statement of claim. In paragraph 5 there was a list of excluded categories given which I set out below:

"Press:

Assistant Printer

Advertisement and display compositors

Lino baller
Store keeper
Engraver
Proofer
Rotaryman
Asstt. Muccadam—Rotary Dept.
Muccadam—Rotary Dept.
Fireman—Rotary Dept.
Plastic Workman
Layoutman
Retoucher
Etcher
Rotogravure baller
Rotogravure machineman
Metal caster
Grinding worker
Fitter attendant
Boiler attendant
Store Muccadam
Dark-room Photo Assistant Printer
Stereo-in-charge
Garage painter
Oilman
Fire Brigademan
Cycle mechanic
Bundler

Office:

Senior clerk
Advertisement scheduling clerk
Naik & Havildar
Sub-Havildar"

In paragraphs 7 to 85 duties of each of the excluded categories and the grade in which they should be placed were stated in detail. I shall deal with this when I consider the excluded categories in my award.

132. After the Central Government had made a fresh reference in respect of certain publications of Bennett Coleman & Co. Ltd. there was a fresh written statement filed on behalf of the workmen consolidating all the several statements which had been filed before. There is nothing in this statement which had not been pleaded before and there is no necessity to summarise this written statement at this stage.

133. At the time when the reference was confined to the industrial dispute between the employers and the workmen in Times of India, Bombay and Delhi, (which was registered before this Tribunal as NIT-2 of 1968), the Tribunal held a sitting at Bombay and there the following witnesses were examined by the management, namely, (i) P. K. Roy, General Manager, (ii) K. C. Raman, Production Manager, (iii) V. G. Karnik, Personnel Manager, (iv) G. S. Subrahmanyam, Senior Accountant and (v) R. S. Pinto, a clerk in the Process department, all of Bennett Coleman & Co. Ltd. At that stage the workmen examined the following witnesses, namely, (i) G. J. Pinto, a clerk, (ii) B. P. Bhatia, a clerk in the Advertisement department, (iii) Probhakar S. Yadav, Colour Etcher in the Process Department, (iv) M. A. William, Compositor and (v) N. A. Savat, Secretary of the Times of India & Allied Publications Employees' Union.

134. V. G. Karnik, the Personnel Manager, was again examined at the hearing of the reference between the Bennett Coleman & Co. Ltd. and their workmen, which was registered before this Tribunal as NIT-1 of 1969.

135. P. K. Roy in his evidence gave details of the different publications of Bennett Coleman & Co. Ltd., published from different centres. I have heretofore named the different publications. In his evidence, however, he added one more, namely the Times of India Year Book, a Directory, [a copy of the Year Book for the year 1968 was marked as Ex. 51(t)]. He further stated in his evidence:

"We have five centres, where we have administrative and managerial staff, namely, Bombay, Delhi, Calcutta, Ahmedabad and Madras. The total number of them, in all the five places taking together, will be around

120. The total number of such administrative and managerial employees in Bombay and Delhi only will be about 105.** Some members of the clerical staff are assigned to the publication of a particular newspaper of the Bennett Coleman & Co. Ltd.** No particular class of clerks can be assigned or are assigned to the publication of particular newspaper. There are some members of the factory staff who work exclusively for the publication of a particular newspaper or a magazine, for example a compositor. Workmen in the factory, who are engaged in publication of Hindi newspapers and journals, do not ordinarily work for publication of English newspapers and journals.*** other workers in the factory do the work of all works in the printing department of newspapers generally. The same is the position in the Engineering department. Also same is the position with regard to Watch & Ward staff."

He stated that there were some 130 categories of workmen in the Bombay establishment of Bennett Coleman & Co. Ltd. who were grouped into six categories under the recommendations of the Wage Board. According to him this type of packed categorisation was defective. According to him, the Wage Board grouping will have this effect that people who were in the higher level and with whom workmen in the lower level were grouped together will probably ask for more in the future. About the wages, he stated that the company was paying fair wages to the workmen and there was no reason why they should pay more and carry greater financial burden, which would divert the greater portion of the profit to the workmen. In the Job and Process departments he said as follows:

"The amount of value of work done in the Job department came upto around Rs. 58 lakhs per annum. The Job department also prints stationery goods, take for example letter heads, bills, etc. for Bennett Coleman & Co. Ltd. There are bills, on the Bennett Coleman Ltd. made by the Job department and payment is made by making book entries only. The amount of Rs. 58 lakhs or so includes value of such work also. The Job department is not necessarily for the publication of Times of India newspaper. The Job department prints two Newspapers 'Science to-day' and 'Indrajal Comics' for Bennett Coleman & Co. Ltd. This is a Process department in the Bennett Coleman which works for the daily newspapers and the monthly known as 'Science today' and also for the Times of India Annual and Times of India Directory & Yearbook. Both the Process department and the Job department do outside works also."

In cross-examination he specifically admitted:

"I do not think that there is any distinction between administrative and managerial staff. No member of the administrative staff has been appointed specifically for the Times of India publication. My answer is the same in regard to clerical staff and Press staff. In the clerical staff there are changes of assignment from one Newspaper to another. So also are for compositors. The composing sections for the different newspapers works under the Superintendent."

Witness No. 2 for the management, K. C. Raman, stated that he looked after the newspaper section and also the Job department. About the works done in the Job department he stated:

"The Job department has three sub-departments, namely, Composing, Letter Press machine and Binding departments. In the composing department we deal with catalogues, booklets, brochures, magazines and books. The job department prints for the company, ledgers, account books and other stationery printed materials as also a monthly journal known as 'Science to-day'. The job department also prints a fortnightly known as 'Indrajal Comics'."

He, however, added a rider stating that in the actual production of the Times of India daily newspaper, job department does not do anything. According to him nobody was however transferred from Job department to Newspaper printing department and the printing machinery of the Job department was not also utilised in the news printing department, and *vice-versa*. According to him further:

"The Job department maintains a separate account of its own. That account is upto billing only. Thereafter the job department accounts are consolidated with main accounts of the company."

About the Process department his evidence was:

"The Process department makes blocks for the five dailies, the journal known as Science today, Times of India Annual and Times of India

Year Book and Director. The Directory and the Year Book is neither a newspaper nor a journal. The Process department also does work for the job department, which may include orders placed by outside clients. The workmen in the Process department also are not transferred to newspaper section and *viceversa*. We do not have a separate Process department at the Ahmedabad Press. The block requirements for the Ahmedabad Press are met by outside block makers."

The third witness for the management, V. G. Karnik, is the Personnel Manager. He spoke about the yearly additional burden which the management would have to shoulder as a result of the implementation of the recommendations of the Wage Board. According to him the yearly additional burden would come upto about Rs. 14,00,000 and the burden of the interim relief would be Rs. 9,67,000. The witness No. 4 of the management is G. S. Subrahmanyam, Senior Accountant, is a Chartered Accountant himself. In his examination in chief he explained a chart prepared by the management on accounts (marked Ex. 52a) being Process department income for 1967-68 for Bennett Coleman and Co. Ltd. The last witness is R. S. Pinto, a clerk in the Process department. He also explained certain pages of several bill registers and journals, being Exhibits 53, 54 to 54(b), 55, 57, 57(a) and 58.

136. Amongst the witness examined on behalf of the workmen, G. J. Pinto, a clerk in the Job department, stated that the Job department made Rollers for Times of India newspaper. Witness No. 2, B. P. Bhatia was originally in the Times of India and thereafter was transferred to different departments and at the material time was working in the Advertisement department of the Evening News. His evidence was that clerks were transferred from one publication to another publication of Bennett Coleman & Co. Ltd. but their pay scales remained the same. The third witness for the workmen, Probhakar S. Yadav, stated that the Process department does work for Times of India, Navbharat Times, Maharashtra times, Economic Times, Evening News, Indrajal Comic, Madhuri and Dharmayauga. The fourth witness for the workmen gave evidence to the effect that the compositors were transferred from one publication to another publication, when there was shortage of men or other necessity in other publications. The last witness for the workmen was N. A. Savant, Secretary of Times of India & Allied Publications Employees' Union, who stated that the list of workmen given in paragraph 5 of the written statement of the workmen filed on January 8, 1969, contained a list of workmen in Times of India, that is to say Times of India Press and not Times of India Newspaper.

137. V. G. Karnik, the Personnel Manager came to depose again when the hearing of NIT-1 of 1969 was taken up. The material portion of his evidence is set out below:

"I look after the personnel engaged in the branches as well. There are account sections attached to the branches. The figures come to the Head Office and accounts are kept under the Head Office accounts only. The profits or losses made by the branches are all consolidated and ultimately made the profits or losses of Bennett Coleman & Co. Ltd. There is an accounts clerk attached to each of the following departments, advertisement department circulation department and the process department. Excepting for printing stationery goods for the different newspapers and journals the job department does job works, two of the publications of Bennett Coleman & Co., namely the multilingual paper the 'Indrajal Comics' and the English monthly known as 'Science to-day' are printed by the job department. The job department also does work for outsiders. The process department prepare blocks for different newspapers and journals and also does work for outsiders. The process department prepare blocks for different newspapers and journals and also does work for outsiders. As between the newspaper department and the job department inter-departmental transfers are not made because job department is treated as a separate department. Same service rules govern employees in the job department as in the other departments. The job and process departments men were being paid wages at the same rate as other department men so long."

He, however, admitted that job supervisors of the staff were common.

138. This is a short summary of the oral evidence led in this reference on behalf of the Times of India & Allied Publications of Bennett Coleman & Co. Ltd.

139. Hereinbelow I set out portions from the Annual Reports of the Company, for the years ended December 31, 1962 to December 31, 1966, in order to illustrate the financial condition of the establishment:

Year ended December 31, 1962—Ex. 49

	Rs.	Rs.
After meeting all expenses of operation and management and after providing for depreciation and bonus to employees the year's working has resulted in a net profit of		44,57,413
Less: Development Rebate Reserve	4,80,000	
Provision for Taxation including Rs. 5,65,000 for Super tax	26,10,000	30,90,000
		13,67,413
Add: Balance brought forward from last year's account		2,89,661
Making available a total of		16,57,074
Less: Transfer to General Reserve		6,00,000
Leaving a net sum		10,57,074
Out of which interim dividend for the year 1962 has been paid at the rate of 25 percent on paid-up capital absorbing a sum of		10,46,263
Leaving to be carried forward a net balance of		10,811

Year ended December 31, 1963—Ex. 49(a)

After meeting all expenses of operation and management and after providing for depreciation and bonus to employees the year's working has resulted in a net profit of		63,62,953
Less: Development Rebate Reserve	60,000	
Provision for Taxation including Rs. 6,00,000 for Surtax	45,00,000	45,60,000
		18,02,953
Add: Balance brought forward from last year's account		
Excess provision of Development Rebate in earlier years written back	10,811 3,13,000	3,23,811
Making available a total of		21,26,764
Less: Transfer to General Reserve		10,75,000
Leaving a net sum of		10,51,764
The Directors recommend payment of dividend for the year 1963 at the rate of 25 per cent on paid-up capital absorbing		10,46,263
Leaving to be carried forward a net balance of		5,501

Year ended December 31, 1964—Ex. 49 (b)

After meeting all expenses of operation and management and after providing for depreciation and bonus to employees the year's working has resulted in a net profit of		67,83,505
Less: Development Rebate Reserve	61,000	
Excess provision in previous years written back	3,21,378	
	2,99,422	
Provision for taxation	43,05,000	
Short provision for depreciation of the earlier 3 years now provided	1,62,347	47,66,769
		20,16,736

	Rs.	Rs.
Add: Balance brought forward from last year	5,501	
Development Rebate Reserve	20,687	26,188
		20,42,924
Less: Transfer to General Reserve		9,75,000
		10,67,924
Leaving a net sum of		
The Directors recommend payment of dividend for the year 1964 at the rate of 25 percent on paid up Capital absorbing		10,46,263
Leaving to be carried forward a net balance of		21,661
Year ended December 31, 1965—Ex. 49 (c)		
I.—FINANCIAL RESULTS:		
The profits before depreciation, development rebate & taxation amount to		46,03,397
Less: Depreciation	11,21,588	
Development Rebate Reserve	2,09,500	
Taxation	21,65,000	
Provision for Doubtful Debts	1,00,000	35,96,088
		10,07,309
Net Profit		
Less: Short provision for depreciation in earlier years		
Add: Excess provision for Development Rebate Reserve written back		
		10,07,309
Add: Balance brought forward from last year		21,661
Development Rebate Reserve written back on sales		
The amount available for disposal is —		10,28,970
The Directors have decided to transfer to General ..		
General Reserve		10,27,500
Proposed Dividends		
		1,470
Your Directors recommend the following dividends to be paid from the General Reserve, if declared at the Annual General Meeting:		
(i) A dividend for the year 1965 at the rate of 10% of the paid-up capital absorbing		4,18,505
And		
(ii) A dividend for the year 1959 at the rate of 1% on paid-up capital in supersession of the dividend purported to have been declared at the Extraordinary General Meeting held on 13th May, 1966 absorbing	41,850	
	4,60,355	
The above net profit is after setting off a net loss of Rs. 7,06,033 incurred by the Delhi office during the year under review.		
As amended at the Board Meeting held on 25th June, 1966 at 1.30 p.m.		
Your Directors recommend to the following dividends to be paid from the General Reserve, if declared at the Annual General Meeting		
(i) A dividend for the year 1965 at the rate of 15 per-cent on the paid-up capital absorbing		6,27,757.50
and		
(ii) A dividend for the year 1959 at the rate of 5 per-cent on the paid up capital in supersession of the dividend purported to have been declared at the Extraordinary General meeting held on 13th May, 1966, absorbing		41,850.50
		6,69,608.00

*Year ended December 31, 1966—Ex. 49(d)***I. FINANCIAL RESULTS:**

The profits before depreciation development rebate, provision for doubtful debts & taxation amount to		56,73,730
Less: Depreciation	11,01,763	
Development Rebate Reserve	19,435	
Taxation	22,30,000	
Provision for Doubtful Debts	75,000	34,26,198
Net Profit		532
Add: Balance brought forward from last year		1,470
Development Rebate Reserve written back on sales		469
Law charges paid in 1965 written back		10,000
The amount available for disposal is		22,59,471
The Directors have decided to transfer to General Reserve		22,59,000
Leaving to be carried forward a net balance of		471

Your Directors recommend a dividend for the year 1966 at the rate of 25 percent on the paid-up capital a sum of Rs. 10,46,262.50 from the General Reserve if declared at the Annual General Meeting.

*Year ended December 31, 1967—Ex. 49 (e)***I. FINANCIAL RESULTS**

The profits before depreciation, development rebate, provision for doubtful debts and taxation amount to		54,12,494
Less: Depreciation	10,55,176	
Development Rebate Reserve	11,095	
Taxation	23,68,000	
Provision for Debt	1,01,376	35,35,647
Net Profit		18,76,847
Add: Balance brought forward from last year		471
Development Rebate Reserve written back on sales		—
Excess Provision of Bonus for earlier years written back		21,084
Law charges paid in previous year written back		—
Excess Provision for Property Tax for earlier years written back (Less tax provision thereon Rs. 2.04.000)		1,31,525
and		
Income Tax (Refund for 1956 and 1957)		15,850
The amount available for disposal is		20,45,777
General Reserve		20,45,000
Leaving to be carried forward a net balance of		777

*Year ended December 31, 1968—Ex. 125:***I. FINANCIAL RESULTS:**

The profits before depreciation, development rebate and taxation amount to		34,11,118
Less: Depreciation	11,34,424	
Development Rebate Reserve	39,667	
Taxation	10,75,000	22,49,091
Net Profit		11,62,152

	Rs.
Add: Balance brought forward from last year	777
Excess provision of bonus for earlier years written back	20,038
Excess provision for property tax for earlier years written back (less tax provision thereon Rs. 2,04,000)	—
Income-Tax (refund for 1956 and 1957)	11,82,967
Less: Salaries & Wages for 1967	85,000
The amount available for disposal is	10,97,967
The Directors have decided to transfer to General Reserve	10,97,000
Leaving to be carried forward a net balance of	967"

140. Both Mr. Phadke for the employers and Mr. Phadnis for the employees adopted the arguments advanced respectively on behalf of the employers and the employees in respect of other newspapers establishments, in so far as they applied to the reference made in respect of Bennett Coleman and Company Limited's publications I need, however, take notice of some further arguments in order to enable me to make a proper award. At a stage when the reference was confined to the industrial dispute existing between the employers and workmen in the Times of India, Bombay and Delhi, Mr. Phadke argued that the reference was misconceived because there was no workmen employed in Times of India either at Bombay or at Delhi, who could be said to have any dispute with the employers. In elaboration he submitted that all the workmen were employees of Bennett Coleman and Company Limited and not of Times of India. Since there were no workmen in Times of India either in Bombay or in Delhi, imaginary disputes of such non-existent workmen could not form the subject matter of industrial disputes. Factually, it is true, that there is no workmen employed under the Times of India newspaper only, as the evidence hereinbefore set out amply shows. This position, however, was made worse when Navbharat Times at Bombay and Delhi were added to the original reference on February 12, 1969, and the same objection as taken in respect of Times of India equally applied to Navbharat Times. The position was sought to be retrieved when a fresh reference was made, on March 7, 1969, in respect of all the Publications of Bennett Coleman and Company Limited Mr. Phadke argued that both the references should be thrown out by the Tribunal. His arguments may be summarised in the following heads:

- (a) Government did not form any opinion as required to do under Section 10 of the Industrial Disputes Act, otherwise the Government would not have changed its opinion from time to time.
- (b) Navbharat Times was both in the first and in the second reference and therefore both the reference overlapped. In such a situation none of them could survive.
- (c) Alternatively, the last one alone could survive after destroying the first one and in that event there would be no reference in respect of Times of India, which was not named in the Schedule. Further, in the alternative, the first one may survive and the last may remain a still born reference, with the result that other publications of Bennett Coleman Company Limited would not be covered by any reference.

He strongly submitted that there was no power in the Government to withdraw Navabharat Times from the first reference and to make it a subject matter of the second reference. I shall deal with this preliminary objection when making my award.

141. In the next place, Mr. Phadke argued that if the Tribunal found that the recommendations of the Wage Board were wholly fair and wholly reasonable then it need not do anything more. If, however, the tribunal found that the recommendations were wholly unfair and unreasonable, he doubted the jurisdiction of the tribunal to rewrite the Report of the Wage Board in the garb of an award. If, however, the finding of the tribunal was that the recommendations were partly unreasonable and partly unfair, he still then doubted the jurisdiction of this tribunal to modify the recommendations in such a manner as to make it a reasonable production.

He argued, in the third, place that the payment of 75 per cent of the difference in wages was not guaranteed at all events. This argument may be shortly disposed of. Hereinbelow, I set out the relevant extracts from Ex. 82 and 81, namely, the letter written by the Labour Ministry to Bennet Coleman and Company Limited and the reply thereto by Bennett Coleman and Company Limited, respectively dated September 15, 1968 and September 16, 1968:

"During the discussions which the Labour Minister had yesterday with the representatives of the various newspaper establishments, it was suggested that if a bipartite settlement could not be arrived at, the present dispute could be referred to adjudication on two conditions, namely, (1) the employer should agree to pay, in addition to the present emoluments, 75 per cent of the difference between the present emoluments and the emoluments to which an employee would be entitled under the Wage Board recommendations, and (2) that an employee should be assured of the quantum of emoluments as determined above even after the adjudication award. You had suggested that you would convey your reactions by to-morrow. I shall be grateful if you could let me have your reply immediately so that we can proceed in the matter in case a bipartite settlement is not possible."***

To the above letter the following reply was sent:

"With reference to your letter dated September 15, 1968 in the event of the Central Government referring the entire dispute as covered by the Non-Journalist Wage Board recommendations to adjudication of an Industrial Tribunal, we agree to pay the workmen concerned in the Wage Board report (i.e. non-journalist employees of the newspaper establishments of the Company) 75 per cent of the difference between their emoluments as on 1st January, 1968 and the emoluments to which the individual workmen would be entitled under the Wage Board report.

We also agree that in the event of any employee being put in a different group and/or in a lower grade by the adjudicator, the employee will be issued of 75 per cent of the difference mentioned in the paragraph above."***

The above exhibits show that the 75 per cent of the difference will be payable in spite of an award that may be made by the Tribunal.

142. The fourth argument of Mr. Phadke was that the Desai award continued upto the middle of February 1968. The Central Government made the Wage Board recommendations effective from July 1, 1967. This cannot be done at all.

143. The fifth argument of Mr. Phadke was that in the matter of recommending a wage structure, the Wage Board failed to take into consideration:

- (i) the capacity of the industry to pay on industry-cum-region basis.
- (ii) the productivity of labour as distinguished from the need of labour.
- (iii) the level of national income and distribution.
- (iv) the place of the newspaper industry in the economy of the country.

In this context, he relied on the statement of law, by the Supreme Court, in the following cases:

- | | |
|---------------------|--|
| (a) 1961 I LLJ 339 | [Express Newspapers (Private) Ltd.]. |
| (b) 1961 I LLJ 339 | (Alembic Chemical Works Company Ltd.). |
| (c) 1961 II LLJ 124 | (Burmah-Shell Refineries). |
| (d) 1962 I LLJ 642 | (Birla Cotton Spinning & Weaving Mills). |
| (e) 1962 II LLJ 744 | (French Motor Car Co. Ltd.). |
| (f) 1963 I LLJ 108 | (Hindustan Times Ltd.). |
| (g) 1964 I LLJ 380 | (Workmen of Balmer Lawrie & Co. Ltd.). |
| (h) 1966 I LLJ 1 | (Ahmedabad Millowners' Association). |

144. He further submitted that in judging the capacity of the industry to pay, several factors need be kept in view, for example:

- (i) Capacity of the industry (in the instant case, the case of Newspaper industry) to pay and not that of a unit or of an individual concern.
- (ii) A fair cross-section of the industry should be considered.

- (iii) Classification for judging capacity is permissible but the principle that there should be equal pay for equal work should not be violated beyond permissible limits.
- (iv) While judging the capacity to pay, the legitimate desire of the employers to make a reasonable profit should be respected.
- (v) The burden proposed to be imposed need be carefully calculated over a period of years because the wage structure has to be a stable arrangement.
- (vi) Care should be taken that wages be not fixed at an unduly high level just because one concern has the capacity to pay because this might lead to labour unrest and migration of labour.

In his opinion, all these salutary principles were forgotten by the Wage Board while making the recommendations. He also submitted that the Wage scales were unrealistic because:

- (i) The minimum and the maximum were unduly high.
- (ii) The span within which the maximum was to be reached was too short.
- (iii) Increments were unduly large.
- (iv) Absence of efficiency bar made jumps in wages possible without efficiency.
- (v) Difference between skilled and semi-skilled workmen was unduly wide.
- (vi) No comparison was made with wages prevailing in other newspaper concerns.

He also condemned the fitment scheme in respect of Bennett Coleman and Company Limited as undesirable because the scale of pay was already on the high side. He also condemned the scheme of dearness allowance as opposed to the principle laid down by the Supreme Court in the case of Ahmedabad Mill Owners Association (supra).

145. According to him, the date of effect of the Wage Board recommendations should have been after the termination of the Desai award.

146. Regarding the Job department he contended that there was no Job department in Times of India. According to him Job and Process departments were different establishments and formed no part of any newspaper establishment. Alternatively, if the workmen of Job and Process departments were part of any newspaper establishments they served under different newspapers placed in Group I to IV and therefore ineligible to be placed in class I.

147. Regarding the third item of the Schedule of Reference his contention was that there was a complete list of employees in Ex. 47 and the presumption would be that those categories and no other category existed in Bennett Coleman and Company Limited. Fixation of any scale of pay for non-existent or imaginary categories would be arbitrary.

This finishes with the main heads of arguments by Mr. Phadke.

148. Mr. Phadnis, appearing for the workmen, submitted that the reference was not a misconceived one because there was no workmen employed in the Times of India newspaper. He submitted that what was meant by Times of India or the organisation of the Times of India was the Times of India Press. If such an interpretation was put, the expression would drag the totality of the employees of Bennett Coleman and Company Limited. He submitted, in the next place, that there was power in the Tribunal to modify the reference.

149. On the merits, Mr. Phadnis submitted that the requirement of examination of the capacity of employers to pay was kept in view by the Wage Board and in this context he strongly relied upon paragraph 3.19 to 3.25 at page 26 of the Report.

150. He argued in the third place, that failure of the Wage Board if any, to spread over the burden of the wage structure over a number of succeeding years was not necessary in the present context regarding he had to the largeness of the capacity of Bennett Coleman and Company Limited to pay.

151. He submitted, in the fourth place, that newspaper industry did not present any regional characteristic and the application of the industry-cum-region test would be irrelevant in the context of fixation of wage structure in the newspaper industry.

152. He submitted, in the fifth place, that classification on gross revenue basis was not illegal and in this context he relied on the following observations of the Supreme Court in the case of Express Newspaper (supra) in 1961 I LLJ, 399 at 407:

"Even though the proportion of advertisement revenue to the gross revenue of a newspaper establishment may be relevant consideration for the purpose of classification, we are not prepared to say that the Wage Board was not justified in adopting this mode of classification on the basis of gross revenue."

153. His next argument was that the principle for equal pay for equal work must not be dragged to its extreme and a small concern cannot be compared to a very large concern in the same line of business. In this context he relied upon the following judgments of the Supreme Court:

(i) 1962 I LLJ 302 [305—Williamson (India) Private Limited.]

(ii) 1962 II LLJ 744 (747—French Motor Car Company Limited.)

(iii) 1964 II LLJ 148 (149—Patna Electric Supply Company Limited.)

154. He also submitted that the capacity to pay should be gauged on the basis of elasticity of demand and in this context he relied upon the following observations of E. M. Burns approved by the Supreme Court in the case of Express Newspaper (supra):

"It should be necessary to enquire *inter-alia* into elasticity of the demand for the product, as on this depend the extent to which employers can transfer the burden of the increased wage to consumers. It would also be necessary to enquire how far enforced demand of higher wage should lead employers to tighten up the organisation and so pay the higher wage without difficulty."

He contended further that wage was the first charge and the other consideration of the industry should be subordinated to the demand of the workmen for payment of fair wages.

155. According to him the wage as suggested by the Wage Board are far below fair wages. He indicated the willingness of workmen to accept the said wages for the time being, without prejudice to their rights to ask for more. He cautioned that the prescription of any lower wage structure would make the workmen loose their incentive for work and would perpetuate industrial dispute.

156. As regards the date from which the recommendations should become effective, Mr. Phadnis conceded that at least it should become effective from February 16, 1968.

157. Regarding the second item of Schedule II, he submitted that there were no separate workmen in the Job department, all were workmen of Bennett Coleman and Company Limited. This item of the reference he practically left untouched at the stage the hearing was going on at Bombay. Later on, while NIT-1 of 1969 was being heard, Mr. Chimanlal Shah, who was appearing for the employers at that stage admitted that there was no express provision in the recommendations of the Wage Board that the workmen in the Job Department were excluded from the benefits. Mr. Phadnis submitted that the Job Department and the Process department were parts of the same newspaper establishment.

158. Regarding excluded categories, both of them submitted that Ex. 47 should be taken to be admitted list of workmen, and those amongst them not included by the Wage Board should be considered to be excluded categories.

This completes a rapid summary of the arguments advanced on behalf of the management and the workmen of Bennett Coleman and Company Limited.

XI

Newspaper Establishment of Indian Express Newspaper (Bombay) Limited

159. The Indian Express Newspapers (Bombay) Private Limited publishes the following newspapers and journals:

1. The Indian Express (Bombay and Ahmedabad)—Daily.
2. The Sunday Standard (Bombay and Ahmedabad)—Weekly.
3. Lokasatta (Marathi) (Bombay)—Daily.
4. Weekly Lokasatta (Bombay)—Weekly.

5. The Financial Express (Bombay)—Daily.
6. The Screen (Bombay and Madras)—Weekly.
7. The Indian Express (Delhi)—Daily.
8. The Sunday Standard (Delhi)—Weekly.

The management of Indian Express Newspapers (Bombay) Private Ltd. filed a written statement. This written statement is, curiously enough, a replica of the written statement filed by the Bennett Coleman & Co. Ltd. The preliminary objections taken in paragraph 2 are the same as the preliminary objections taken by the Bennett Coleman & Co. Ltd. Paragraphs 4 to 13 contain the historical background of the wage dispute in newspaper industry, paragraph 16 and 17 deal with the Wage Board for non-journalists and its recommendations, paragraphs 18 to 20 contain general comments on the recommendations of the Wage Board for non-journalists, paragraphs 21 and 22 deal with classification of newspapers, paragraphs 23 and 24 contain criticism that the definition of gross revenue given by the Wage Board is unreasonable, paragraphs 25 to 27 deal with the wage scales and grades, paragraph 31 deals with dearness allowance, paragraph 32 deals with gratuity and paragraph 33 deals with fitment. The above paragraphs are more or less bodily reproduction of paragraphs on the same subject matters in the written statement by Bennett Coleman & Co. Ltd. Paragraphs 38 and 41 are couched in the following language:

"38. Both the Wage Boards, in their respective Reports have stated that the average net profit of the company for the years 1963, 1964 and 1965 is Rs. 29.03 lacs. This is entirely incorrect. The Average Annual net profit of the company for the three years 1963-64, 1964-65 and 1965-66 comes to about Rs. 12 lacs, after making provision for depreciation, development rebate and taxation. It is not known how the two Wage Boards have arrived at this figure of Rs. 29.03 lacs. The financial burden upon the Company for retrospective arrears according to the recommendations of the Wage Boards upto 31st December, 1967 will be approximately Rs. 6,33,000/-. The recurring financial burden upon the Company under the above recommendations of the two Wage Boards works out to Rs. 10,66,728/- per annum. This burden will further increase by about Rs. 3,48,276/- per annum from January 1968 when the Dearness allowance payable by the Company is linked with the All India Average Consumer Price Index according to the recommendations of the Wage Board. Thus the annual financial burden on the company of implementing the Recommendations of the two Wage Boards from 1st January 1968, will be about Rs. 14,15,004/- This is apart from other benefits like Provident Fund, Employees State Insurance, Bonus, Leave benefit etc. which add up to 25 per cent of the Wage Bill. This Annual burden will also increase every year by about Rs. 2,49,000 on account of increments according to the Wage scales and may be much more if there is rise in the Consumer Price Index.***

41. The Company has implemented the Recommendations of the two Wage Boards for payment of Interim Reliefs. In addition to this, the company also has paid additional Interim Relief to its non-journalist employees as per agreement dated 25th August 1966 between the company and the Employees Union. These payments have put upon the company an annual financial burden of about Rs. 3,00,000. The Company has also implemented the recommendations of Wage Board for Working Journalists from 1st February, 1968 in accordance with the Order of the Supreme Court. The company has also paid the Non-journalist employees 70 per cent of the difference between their present emoluments and as per the Recommendations of the Wage Board for Non-journalists from 1st January, 1968 in accordance with the Agreement arrived at between IENS and All India Newspaper Employees Federation. This was increased to 75 per cent from 19th September 1968 as hereinafter mentioned. These payments, which the company was compelled to make, have put a very heavy financial burden upon the company, which, by itself, is beyond its capacity to bear."

Paragraph 42 deals with item 2 in the Schedule to the Order of Reference. It is therein stated:

"that there are no categories of Non-Journalist employees in the newspaper establishments of the company which are excluded from the recommendations of the Wage Board for Non-Journalists."

There is a heading "under item No. 3 in the Schedule to the Order of Reference", but nothing is pleaded therein. Lastly it is pleaded in paragraphs 46, 47 and 48:

- "46. The company submits that the wages, scales of pay and grades paid by the company to its employees are fair, just, reasonable and proper and there is no case or justification for any upward revision of the existing wages, grades and scales taken together with all the benefits at present enjoyed by the employees of the company.
47. The company by its letter dated 16th September 1968 to the Additional Secretary, Ministry of Labour, Government of India, in reply to his letter dated 15th September, 1968 has further agreed under compelling circumstances to pay to its Non-Journalist employees, as interim payment, 75 per cent of the difference between their present emoluments and as per the recommendations of the Wage Board for Non-journalist employees, on condition that the Reference will be on all matters contained in the recommendations of the Wage Board and this payment of 75 per cent difference should not effect the adjudication which will be on the entire present Wage Board recommendations.
48. The company has further agreed that when the final Award is given, the Management will fix in the present non-journalist employees in the scales so that they do not get less than the present emoluments plus 75 per cent of the difference. The company submits that this payment of 75 per cent difference as mentioned above is more than fair, just and adequate.***"
160. On behalf of the workmen there was a written statement filed by the Indian Express Employees Union. In paragraphs 2 and 3 of the said written statement the prosperous condition of the newspaper establishment is described. In paragraph 7 to 20 there is a description of the dispute leading to the reference to this Tribunal. In paragraphs 24 to 26 are described the plight of the workmen in the following language:
24. There is no D.A. Scheme either and when the Wage Board circulated a questionnaire and sought to know if any D.A. was being paid to the workmen, the management arbitrarily split the wages of the employees into Basic Wage and D.A. which is not linked to any cost of living index.
25. The Wages paid to the Workmen of the Indian Express do not compare favourably even with such new and small newspapers as the Patriot and the National Herald, which are published in Delhi, i.e. from the same region, nay the same street.
26. Moreover, no fringe benefits are also available to the workmen of the Indian Express in Delhi. Even gratuity which has been unanimously recommendable by the Wage Board and was never a point of dispute, is being denied to the workmen."
- Paragraphs 31 to 35 contain a summary of the recommendations by the Wage Board. In paragraphs 36 to 38 the defects and deficiencies in the recommendations made by the Wage Board are described in the following language:
- "36. The workmen feel that the Wage Board has not taken into consideration the formula of need based wage. It has recommended for daily newspapers a total wage of Rs. 180 for the lowest paid employees in Class I area in Class I newspapers and Rs. 80 in area III for Class VII newspapers. By any calculations the need based wage will be much more than Rs. 80 in class III areas and Rs. 180 in the class I areas
37. The Board has even failed to give an adequate subsistence wage, what to talk of a need based wage. The subsistence wage, which has been described by various wage fixing authorities, is that wage which enables a worker to maintain himself and his family in a stage of health and reasonable comfort.
38. The Wage Board has also failed to maintain the wage parity with the other section of the newspaper employees, namely, working journalists. It has failed to give adequate justice to the non-journalist employees in this regard. If a comparison is made between the recommendations for the non-journalist and for working journalists, it is apparent that double standard have been used.

Paragraphs 40 and 42 contain some of the criticisms of the recommendations of increment recommended by the Wage Board. They are:

- (a) that the rates of increment suggested, particularly in the lowest grades, are totally inadequate and inequitable. By fixing the rates of increment for the

lowest group, the Board totally lost sight of the fact that the wage scales framed by it were practically consolidated on the price level of 1963.

(b) that very high rates of increments were paid to the peons and mazdoors in comparative concerns in other industries in different States and regions.

(c) that the intention of the concept of the Wage Board was to fix wages for the employees in the newspaper industry on the basis of need-based wage from the 15th Labour Conference. It was, therefore, obligatory on the Board to have found as to what was the quantum of need-based wage at the present price level. Paragraphs 43 to 52 contain the criticism of the rates of dearness allowance recommended by the Board. The main submission is contained in paragraph 49, which is set out hereunder:

"49. It is, therefore, submitted that the capacity to pay has been completely ignored for fixing other part of the wages, namely D.A. ** Class VII newspapers can bear burden of 50 paise per point rise on the basis of 1949 level, higher classes of newspapers should have been required to bear more burden than 50 paise per point."

Paragraph 53 contains the objection regarding retrospective effect of the recommendation. According to the written statement, the recommendations should have been given effect from the date when the Wage Board was constituted by the Union Government, namely, February 25, 1964. Paragraph 54 states the objection about increment in the following language:

"54. With regard to service increments as per sub-para 5 of para 29 of the Wage Board, the Union submit that the provision for two increments is also unjust, harsh, discriminatory and against the principles laid down by the Supreme Court and other wage fixing authorities. Several wage fixing authorities, including the second pay commission and the Khosla Tribunal on Air India, gave point to point adjustment."

Paragraph 60 contains the claim of the workmen regarding pay scales without efficiency bar. Paragraph 61 contains the claim of the workmen regarding dearness allowance in the following language:

- "(i) In the matter of dearness allowance, it should be fixed on the regional basis and linked with the cost of living index.
- (ii) The lowest category should get 100 per cent neutralisation to neutralise the entire rise in the cost of living index ever since the Second World War.
- (iii) Employees in the middle strata should get 100 per cent neutralisation to compensate the rise in the cost of living index since 1944.
- (iv) Employees in the upper strata should get 100 per cent neutralisation to neutralise the prices since 1949.
- (v) However, for the last two categories adequate neutralisation should be provided right from 1939 on tapering basis."

In paragraph 62 the workmen have claimed some other allowances namely:

- (a) A night duty allowance of Rs. 2/- per night to all employees required to do night duty.
- (b) Conveyance allowance of Rs. 30 a month to all employees in view of the costly transport in Delhi.
- (c) Leave concession of the actual train or/and bus fare incurred by an employee and his family on their travel anywhere in India during his annual leave. Sleeping berth and reservation charges should be reimbursed in full. Both way fare should be given in advance. The actual fare, to and from should be given irrespective of the number of lapses in which the journey is undertaken.
- (d) House Rent Allowance of Rs. 30/- to all who have not been provided either with quarters by the office or not paid allowances therefor.

The rest of the written statement is merely argumentative and quotative from the Supreme Court judgments and I need not concern myself with them at this stage.

161. There were five witnesses examined on behalf of the employers namely, (i) T. S. Krishnan, General Manager, (ii) K. Hariharan, Chief Accountant, (iii) P. M. Rajagopalan, Works Manager, (iv) H. R. Bhasin, an Accountant and (v) S. K. Kohli, the Press Superintendent. T. S. Krishnan in his evidence stated:

"The company has a Press at Bombay. That press prints all the publications of the company. Press workers and office workers in our company

are common workers for all the publications by the company, excepting that the compositors in the Marathi composition section exclusively work for the Marathi publication. I also used to work as the Manager in the Express Newspaper Private Limited."

He further stated as follows:

"The interim payments recommended by the Wage Board was implemented by the company. The company revised the recommendation amicably by an agreement with the workmen. This is that agreement (marked Ex 74). The Ahmedabad edition of Indian Express was started in February, 1968. The company paid dividends for the first year only i.e. for 1959-60. In the year 1960-61 dividend was paid on Preference shares only. Thereafter, no dividend has been paid. In 1968 we lost heavily in Delhi and also in Ahmedabad office, that is why we are heavily loosing. Of course, there is further cause namely industrial recession. The competition in advertisement by AIR may be another cause."

In his cross-examination he admitted:

"We have 720 non-journalist workmen in Bombay only. Since 1964 we did not increase the wages of the non-journalist workmen in Bombay excepting what was done by way of implementation of 75 per cent difference under the Wage Board recommendation."

The second witness K. Hariharan spoke about the burden to be imposed upon the finances of the company by way of implementation of the recommendations of the Wage Board in the following language:

"On revision, on the basis of the consumer price index of 1967, the revised burden will cost Rs. 3,48,000 over and above the figures given by the Wage Board. The monthly figure for giving interim relief to Non-journalist come upto Rs. 9,100/-. Under Ex 74 the burden has still more increased by Rs. 6,800/- per month. The implementation of 70 per cent difference under the Wage Board recommendations for Non-journalists amounts to Rs. 34,700/- per month. I have prepared a chart showing net advertisement revenue of Indian Express Newspapers (Bombay) Limited publication wise (marked Ex 75).

In his cross-examination he admitted that since 1964 there had been no increment given to the employees in the basis salary. The third witness P. M. Rajagopalan criticised the grouping made by the Wage Board in the following language:

"Lino Mechanics, Lino Operators, Mono Mechanic and Printers have been grouped under group I at page 37 of the recommendations of the Wage Board; this has not been properly done. They should not be grouped together, Lino Operator, Lino Mechanic and Mono Mechanic work under the Printer. They should not be grouped together. If others do draw the same scale of salary with the man in charge of a department, discipline surely suffers. This loss of discipline may be due to sentimental reasons or because the man in more responsible position should get more pay as a matter of principle. Lino Mechanic and Rotary Mechanics cannot be grouped together, because the Rotary Mechanics cannot be grouped together, because the rotary mechanic should be qualified to read many blue prints but a Lino Mechanic may not be so qualified. Wireman and Electrician as in group III should not be grouped together. My reasons are the same for saying so. Between the compositor and the printer there is another category of workmen known as Asstt. Printer. He is also known as Asstt. Foreman."

The fourth witness Bhasin, an accountant proved certain charts on accounts. The last witness K. Kohli condemned fitment as recommended by the Wage Board in the following language:

"If by reason of fitment under the Wage Board recommendation salary of the inferior man reaches the salary of the superior man, heartburning and dissatisfaction is caused amongst the Staff."

In cross-examination however he admitted:

"Some of the employees affected wrote to me about their hurt burning. I do not have any training in job evaluation."

162. I need set out, at this stage, certain extracts from the Director's Report prefacing Balancesheet and Profit and Loss Accounts of the company, which were marked Exts. 71 to 71(e), illustrating the financial position of the Company:

Year ended 30th April 1964 [Ex. 71(a)]

	Rs.
The working results of the company for the year under review after charging	
(a) depreciation of	8,48,974
(b) and development rebate reserve of	10,855
Show a profit of	16,71,258
To which is added :	
The balance of profit brought forward from the previous year	2,54,838
Making a total of	19,26,096
From which is deducted :	
Amount appropriate to General Reserve on 30-4-64	10,00,000
Leaving a balance of	9,26,096
From which is deducted :	
(a) Provision for taxation	8,25,000
(b) Amount now set aside to General Reserve	1,00,000
And the Balance carried forward to next year is	1,096

Year ended 30th April 1965 [Ex. 71(b)]

The working results of the company for the year under review after charging:	
(a) depreciation of	7,63,134
(b) and development rebate reserve of	12,426
Show a profit of	33,19,348
To which is added :	
(a) The balance of profit brought forward from the previous year	1,096
(b) and Income Tax Refund	18,225
Making a total	33,38,669
From which is deducted :	
(a) Amount appropriated to General Reserve on 30-4-1965	25,00,000
(b) and further provision for taxation for the years ended 30-4-1960 and 30-4-1962	1,49,873
Leaving balance of	6,88,796
To which is added the amount transferred from General Reserve	13,50,000
Making a total of	20,38,796
From which is deducted provision for taxation for the year ended 30-4-1965	20,13,177
And the balance carried forward to next year is	25,619

Year ended 30th April, 1966 [Ex. 71(c)]

The working results of the company for the year under review after charging :	
(a) Depreciation of	7,33,100
(b) and development rebate of	16,344
Show a profit of	37,21,476
To which are added :	
(a) the balance of profit brought forward from the previous year	25,620
(b) income tax refund	1,06,883
(c) and excess provision of earlier year written back	290
Making a total of	38,54,269

Rs.

From which are deducted :

(a) income tax paid for the year ended 30-4-1960	2,181
(b) provision for taxation for the year	22,80,000
(c) and appropriation to General Reserve	15,70,000

And the balance carried forward to next year	2,088
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Year ended 30th April, 1967 [Ex. 71(d)]

To working results of the Company for the year under review after charging :

(a) Depreciation of	6,94,297
(b) Development Rebate Reserve	83,998

Show a profit of	49,28,896
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To which is added :

(a) The balance brought forward from the previous year	2,088
(b) Income Tax Refund	—
(c) Excess provision for Bonus for earlier years written back	3,834

Making a total of	49,34,818
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From which are deducted :

(a) Additional provision for Income tax for earlier years	3,22,934
(b) Provision for taxation for the year	33,75,000
(c) and appropriation to General Reserve	12,35,000

And the balance carried forward to next year	1,884
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Year ended 30th April, 1968 [Ex. 71(e)]

The working results of the Company for the year under review after charging :

(a) Depreciation of	9,81,134
(b) Development Rebate Reserve of	6,26,028

Show a profit of	10,50,622
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To which is added :

(a) The balance brought forward from last year	1,884
(b) Excess provision for bonus for earlier years written back	10,963
(c) Income-tax refund	7,055
(d) Excess provision for income-tax written back	41,046

Making a total of	11,11,570
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From which are deducted :

(a) Additional provision for Income-tax for earlier years	1,50,748
(b) Provision for taxation for the year	9,60,000
(c) and appropriation to General Reserve	—

And the balance carried forward to next year	822
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163. Mr. Chimanlal Shah, who appeared on behalf of the employers, adopted the arguments advanced by Mr. Phalke in Bennett Coleman & Co. Ltd. He further argued that the financial position of the company was such that on the basis of 6 per cent return nothing more than the existing wage was payable to the workmen. He argued in the next place that there should not be any violent changes on the categorisation made either in Salim Merchant Award (Ex. 60) or in Thakore's Award (Ex. 73). He contended lastly that the 75 per cent of the difference already granted to the workmen should be enough and nothing further should be awarded in favour of the workmen. I need notice that Mr. Shah pointed out that there was no excluded category in the establishment of Indian Express Newspaper nor was there any Job department.

164. Mr. Phadnis contended that the picturisation of Mr. Shah was unreal. Relying on Exts. 71(d) and 71(e) he argued that the company was wasting a lot of money on the construction of a huge multistoried building at the Noriman Road at Bombay for the future habitation of the company. He further contended from Exts. 71(d) and 71(e) that the travelling expenses, etc. have considerably gone up. His burden of song was that the company was not entitled to squander away its money in all directions and deny higher wages to the workmen. In other words, his contention was that there was enough scope for the company to tighten up and to grant higher wages to the workmen.

165. This finishes with the examination of the main heads of arguments in regard to this newspaper establishment. I shall examine them more closely while giving my award later on.

XII

The Newspaper Establishment of the Indian National Press (Bombay) Private Ltd.

166. The Newspaper establishment of the Indian National Press (Bombay) Private Limited publishes (i) The Free Press Journal, (ii) The Free Press Bulletin, (iii) The Janasakti, (iv) The Navasakti and the (v) Bharat Jyoti. The management of Indian National Press Bombay Pvt. Ltd. filed a written statement. This written statement is, curiously enough, a replica of the written statement filed by the management of the Indian Express Newspaper (Bombay) Pvt. Limited. The preliminary objections taken in paragraph 2 are the same as the preliminary objections taken by the Indian Express Newspaper (Bombay) Private Ltd. Paragraphs 4 to 13 contain the historical background of the wage dispute in Newspaper industry. Paragraphs 16 and 17 deal with the Wage Board for non-journalists and its recommendations. Paragraph 18 contains general comments on the recommendations of the Wage Board for non-journalists. Paragraphs 21 and 22 deal with classification of newspapers. Paragraphs 23 and 24 contain criticisms with the definition of gross revenue given by the Wage Board, as unreasonable. Paragraphs 25 to 27 deal with the grouping of non-journalist. Paragraphs 28 and 29 deal with the wage scales and grades. Paragraph 30 deals with dearness allowance, paragraph 31 with gratuity and paragraphs 32 to 34 with fitment. These paragraphs are more or less bodily reproduction of identical paragraphs of the same subject matter in the written statement by the Indian Express Newspaper (Bombay) Private Ltd. Paragraphs 35 and 36 are couched in the following language:

"36. Both the Wage Boards, in their respective Reports have stated that the average net profit of the Company for the years 1963, 1964 and 1965 is Rs. 3.79 lacs.

It is further stated that the approximate financial burden on account of the implementation of the financial proposals of the two Wage Boards will be Rs. 1,94,247 for arrears and Rs. 4,24,056 will be the annual recurring burden. These figures given by the Wage Boards in their Reports are wrong. The average annual net profit of the Company for the years 1962-63 and 1966-67 is about Rs. 1,36,000. The immediate financial burden of implementing the recommendations of the two Wage Boards will come to Rs. 5,40,000. This will increase by Rs. 1,70,000, from 1st January, 1968, when the dearness allowance payable by the company, will have to be linked with the All India Average Consumers Price Index. The Annual recurring burden of increments and wages will be about Rs. 65,000, apart from other benefits. Thus the total annual burden of implementing the recommendations of the two Wage Boards will be more than Rs. 7,75,000 and it will go on increasing every year. It is impossible for the company to bear this financial burden.

37. Even on the figures given by the Wage Board itself, it is beyond the capacity of the Company to bear the financial burden of its recommendations and no amount of tightening up the organisation can enable the company to meet such heavy financial burden. The consequence will be that the Company may have to close its Language Newspapers because of the arbitrary and perverse recommendations of the Wage Board regarding classification of the Newspapers which places undue heavy burden upon this company."

Dealing with item 2 of the Schedule to the Order of Reference it is stated:

"41. The Company states that there are no categories of Non-Journalist employees in the Newspaper establishment of the Company which

are excluded from the recommendations of the Wage Board for Non-Journalists."

Dealing with item No. 3 of the Schedule to the Order of Reference it is stated:

"44. The Wage Board has directed that the classification of the newspapers should be based on the average Revenue of the three Accounting Years 1963, 1964 and 1965. The Accounting Year of the Company is from 1st July to 30th June. The Company submits that for the purpose of classification of its newspapers, the average Revenue to be taken into consideration will be for three Accounting Years of the Company viz., 1962-63, 1963-64 and 1964-65.

Taking such average revenue, Free Press Journal would fall in Class IV, Navashakti will also fall in Class V and Janashakti will fall in Class VI according to the recommendations of the Wage Board for Non-Journalists employees. According to the individual Gross Revenue of each of these Newspapers, Navashakti and Janashakti would each fall in Class VI. Because of the recommendations of the Wage Board regarding Gross Revenue and the principles of classification in the case of Group, it is wrongly contended that for the purpose of Classification of the Newspapers of the company, the average Gross Revenue to be taken into consideration should be of the Accounting Years, 1963-64, 1964-65 and 1965-66 and it is also wrongly contended that, considering such average Gross Revenue, Free Press Journal would fall in Class III, Navashakti also in Class III and Janashakti in Class IV. It is submitted that this is wrong and erroneous and the proper classification of the newspapers of the Company so far Non-Journalist employees are concerned is that Free Press Journal along with Bharat Jyoti and Free Press Bulletin would fall in Class IV, Navashakti in Class V and Janashakti in Class VI.

45. The Company submits that its revenue from Job Work, interest from investments, rent received from buildings and revenue from the sale of waste and other miscellaneous items cannot and should not be taken into consideration, for the purpose or classification of its newspapers.

This is in short the summary of the written statement filed by the management, stripped of its verbiage.

167. The Greater Bombay Press Employees Union is a Trade Union of employees working under the Free Press Journal Group of Newspapers, Bombay, Indian Express Group of Newspapers, Bombay, Jam-e-Jamshed, Janmabhumi Group of Newspapers, Bombay, etc. etc. This Trade union filed a written statement for and on behalf of workmen employed under Free Press Journal Group of newspapers, Bombay and Indian Express Group of Newspapers, Bombay. I consider the written statement in so far as it concerns the workmen of Free Press Journal Group of Newspapers, Bombay. In paragraph 2 of the written statement is stated:

"This Union states that the Free Press Group of Newspapers is owned by Indian National Press (Bombay) Pvt. Ltd., a company incorporated under the Indian Companies' Act as a private limited company. This company was established in the year 1930. Major shares of this company are held by Karnani Group from Calcutta. The authorised capital of this company is of Rs. 25 lakhs consisting of 25000 shares of Rs. 100 each. However, the total subscribed capital as at present is of Rs. 12,18,000. On this small capital of Rs. 12 lakhs, the company has created a gross block of fixed assets of Rs. 41,54,864. That is more than 2-1/2 times of its paid-up capital. Besides the company has reserves of Rs. 7,09,000 including development rebate reserve and machinery rehabilitation reserve. This group of newspapers publishes five newspapers from its Bombay Press. The newspapers published by this company with the date of publication are as follows:

Name of the Newspaper.	Frequency of issue.	Language	Year of starting
1. Free Press Journal	Daily except Sunday	English.	1930

1	2	3	4
2. Bharat Jyoti	Weekly on Sunday	English	1938
3. Navashakti	Daily	Marathi	1932
4. Free Press Bulletin	Evening Daily except Sunday	English	1947
5. Janashakti	Morning Daily	Gujarathi	1950"

In paragraph 6 to 16 there is a short resumee of the circumstances which led to the setting up of the Wage Board for non-journalists, how the recommendations made by the Wage Board were not implemented by the management, how there was a struggle and ultimately a reference to a Tribunal. In paragraph 17 there is a chart showing how the circulation revenue and advertisement revenue in respect of Free Press Group newspapers increased from 1956-57 to 1964-65. In 1956-57 the circulation revenue was Rs. 25,04,632 and the advertisement revenue Rs. 21,10,432. As against that in 1964-65 the circulation revenue rose to Rs. 29,62,375 and advertisement revenue to Rs. 38,80,703. In paragraph 18 it is pleaded that bulk of the advertisement revenue was diverted to a newspaper agency set up by the major shareholders. Paragraphs 20 to 23 contain quotative wisdom from Fair Wages Committee, the Commission on Distribution of Income and Wealth and Concertation of Economic Power headed by Prof. Mahalanabis, the Monopoly Commission headed by Mr. Justice K. C. Das Gupta and other reports. In paragraph 24 it is pleaded:

"The Union further submits that though the entire industry has been prospering at the same time, both the newspapers establishments which are in question in this Statement of Claim, have done extremely well during the past few years. The service conditions in these two establishments of their workmen are simply miserable. In the case of Free Press Group of newspapers basic wage structure was decided in the year 1948 by the award of the Industrial Tribunal of Shri Salim Merchant, published in Bombay Government Gazette, Part I-L dated 13th October, 1949 at page 1418. On 21st September, 1960, the company entered into an agreement with the Union extending the said award by increasing each grade by 4 more increments at the maximum. In 1964 it revised allowance by Rs. 5 thereby making the minimum dearness allowance of Rs. 72 per month. Dearness Allowance payable in this newspaper is not linked with any cost of living index. Since 1964 workmen are paid a meagre dearness allowance of Rs. 72 per month at the lowest level, maximum being Rs. 150. In the year 1964 when the employers revised the dearness allowance of Rs. 72 per month Bombay cost of living index number was in the range of 501 to 510. Since then Bombay working class cost of living index has registered a tremendous rise. It reached in this year the range of 751 to 760. Due to the policy of the Government of Maharashtra to artificially peg-down the index during the last few months the Bombay index is static in the group of 731 to 740. Even then during the last four years, though there has been a rise of merely of 230 points over 1964 index, employees in the Free Press group of newspaper did not get any relief against unprecedented rise of the prices of the daily commodities. This rise in the cost of living index without a corresponding rise in the dearness allowance has actually reduced real wages of the workmen in the newspaper industry."

It was further pleaded in paragraph 26:

"While this is the condition of the workmen in this group of newspapers, the establishment has been giving royal treatment to its shareholders and directors. With regard to shareholders it has created a company of some of the shareholders who may be considered to be the principal shareholders of the company giving them sole agency of advertisement thereby allowing them a premium of 30 per cent of all advertisement tariff. By this arrangement this group of shareholders are drawing 6 to 8 lakhs of rupees per year in this company. Besides this regularly the directors of the company are paid fabulous remuneration. There are only three directors and their remuneration in the year 1965 was Rs. 48,675. Their emolument was Rs. 89,274. On account of travelling, entertainment and conveyance these directors are given nearly about the same amount

like their remuneration. Thus it will be seen that there is a great disparity between the treatment given to their share holders and directors as against the treatment meted to the workmen of the company."

In paragraph 28 there was a complaint made that although the workmen were being treated in a niggardly fashion, the officers were being given very favourable treatment. Regarding item 1 of the Order of Reference, it was particularly pleaded:

"The Union in this respect states that the quantum of wages recommended by a wage Board should always be treated as binding on the parties and should not be disturbed unless the recommendations suffer from any settled principles or there is a violation of the law, practice and principles on wage fixation."

In paragraph 46 it is pleaded:

"The Union states that as a matter of fact the recommendations of the Wage Board on the whole are much lower than the demands made by the Union before the Wage Board. The recommendations made by the Wage Board on the whole are far below the expectations of the workmen. Despite this fact the Union accepted the wages as recommended by the Wage Board on the whole since the recommendations were based on unanimous proposals made by the Wage Board initially when the said Wage Board published its tentative proposals. The Union took a stand that in the interest of peace and harmonious labour-employer relations it should accept the recommendations of the Wage Board for the time being and ask for modifications only where there was a gross violation either of the law, principles or practice."

In paragraphs 47 and 48 the grievances about the wages was pleaded as:

"The Union states that at the price level prevailing in 1967, the total minimum wage recommended by the Wage Board was Rs. 161 per month. It will be seen that under the Textile Wage Board, total wage fixed for the most unskilled worker was Rs. 255.55 for the entire industry. It is submitted that more than 4 lakhs industrial and commercial workers in the City of Bombay get by way of dearness allowance alone Rs. 182 or more. The Union submits that the Government of India employees are paid a total wage of Rs. 164 per month. While fixing wages for the Government servants, the Second Pay Commission had stated that the Government cannot be treated as a pay master like a private industry which is motivated with profits. The Union states that compared to the emoluments paid to officers and directors of Free Press Journal group of Newspapers and Indian Express group of Newspapers, the workmen are paid miserably low.

48. The Union submits that the Board which was called upon to fix wages on the basis of 'Need based wage' fixed only Rs. 161 for the class III Newspapers. The amount falls short of need based wage nearly by Rs. 135 per month. This minimum wage cannot be condemned for reduction calling it unfair and unreasonable."

It was further pleaded that the recommendations of the Wage Board as finally modified by the Government made the position worse for the workmen. In paragraph 61 the Trade Union expressed the following view:

"The Union states that the wage scales in the case of Indian Express Group of Newspapers and also in the case of Free Press Journal Group of Newspapers were framed and fixed in the year 1949 under the common award of Mr. Salim M. Merchant, the Industrial Tribunal of Bombay, then. More than fourteen years have passed since then. Under that award, the minimum wage fixed at Rs. 30 and annual increments in the lower grade at Re. 1 per month. Every grade that was framed under the said award had become out-dated as a result of the tremendous rise in the cost of living. Workmen in both these groups of newspapers are denied dearness allowance linked to the cost of living index, not to talk of adequate and proper neutralisation by way of dearness allowance. In the case of Indian Express Group of Newspapers for years together the workmen are denied annual increments. This has further deteriorated their economic conditions. In

these circumstances workmen of these two groups of newspapers are really entitled for proper and adequate fitment formula rather than meagre two or three increments payable under the final recommendations."

In paragraph 68, 69 and 70 the wage structure recommended by the Wage Board was condemned in the following language:

"68. The Union states that the only cardinal principle that is recognised regarding wage fixation is the principle of industry-cum-region. Under that principle, wages in one unit in the industry should be fixed on the basis of wages prevailing in the cross section in the industry taking wages prevailing in other units in the industry. By passing this principle, the Wage Board divided the unit itself into several sub-classes and thereby gave a go-by to the principle of industry-cum-region.

69. The Union submits that fixing a wage structure on the basis of product-wise in an industry is not the same as fixing the wages on industry-cum-region basis. If wages are to be fixed in one unit or one establishment in an industry on the basis of what product is manufactured by the employee concerned, the non-productive workman will also be sufferer in this regard. The test of capacity to pay is laid down by the Supreme Court in the case of Williamson (India) Private Ltd., 1962-I-LLJ-Page 230, Novex Dry Cleaners 1962-ILLJ Page 261. In all these cases Supreme Court held capacity to pay is to be considered and the question of capital invested, fixed assets of the company, reserves, debentures, turnover and number of employees engaged. These are the criteria for deciding which units in an industry should be compared with each other. The Supreme Court in all these cases laid down that industry should be divided into different groups on the basis of these considerations. Nowhere it has been laid down that for the purpose of fixation of wages a unit in the industry is to be divided into separate groups on the basis of revenue of each product.

70. It is, therefore, submitted that to that extent the recommendations of the Wage Board deviating from wellsettled practice in the industry and also contrary to the well-settled principles of law on the fixation of wages are unfair and unreasonable."

Regarding item No. 2 of the Order of Reference, it was pleaded in paragraph 81 as follows:

"The Union states that in the case of the following newspapers, the under-mentioned categories are missing:

Free Press Group of Newspapers

Press:

- (i) Lino ballers.
- (ii) Baller Rollerman.
- (iii) Proof ballers.
- (iv) Machine ballers.
- (v) Senior rotary assistant.
- (vi) Junior rotary assistant.
- (vii) Oilman.
- (viii) General Assistant.
- (ix) Pressman.
- (x) Block caster.
- (xi) Cylinder machineman.
- (xii) Folder.
- (xiii) Mukkadam.

No category in the administrative side is found to be missing in this establishment."

Paragraph 82 contains the Trade Union's view of the categories in which the missing categories of workmen should be pleaded. Regarding item 3 of the Order of reference it was pleaded in paragraph 87:

"In this connection it is submitted that the employer of this group filled before the Wage Board its Balance-sheets and Profit and Loss

Accounts for 5 years. From the position revealed in the said documents the Wage Board came to the conclusion and rightly that this group belonged to group No. III. It is further submitted that this position was accepted by management and at that time of making payment of 10 per cent to the Non-Journalists it made calculations initially on the basis of Class III but only a day or two before the payment, it changed its stand and pleaded that it belonged to group No. IV."

There was also a rejoinder filed on behalf of the workmen in reply to the written statement filed by the management. That rejoinder is a bundle of denials and demurrers and I need not summarise it.

168. The management examined three witnesses, namely (i) M.A. Unny, Personal Assistant to the Director-in-charge, (ii) P.M. Mathai, Accountant, (iii) S. C. Mitra, Press Manager. Unni in his evidence described the different journals published by the Indian National Press (Bombay) Private Ltd., and stated:

"The company has its own Press in which it prints all the journals that I have mentioned. About 329 workmen are employed in the Press department. None of them are exclusively employed for Free Press Journals. There are 62 persons employed in the office both as workmen and as members of the administrative staff."

This witness acts as the Stenographer and the Secretary to the Director in-charge. He says that he collected the information. I do not give much importance in his evidence. The next witness P. M. Mathai, the Accountant, stated in his evidence:

"I have calculated the financial burden that will fall on the company due to implementation of the two recommendations of the Wage Boards for Journalists and Non-Journalists. The burden for journalists will come upto 2,20,000 the burden for non-journalists will come upto 3,20,000. They are inclusive of the burden on account of increase payment for Prov., fund. E.S.I. subscription, minimum bonus, and overtime allowance. I have also included therein the average burden of leave and holidays allowances. In calculating the burden I have taken the dearness allowance on the basis of existing rates of allowance. The company has paid interim relief as recommended by the two Wage Boards for journalists and non-journalists (Shown Annexure F to the written statement of the Indian National Press Bombay Pvt., Ltd.). The figures represent the salaries and wages paid to entire number of employees. I took the figures from the Profit and Loss Accounts of the respective years."

In course of his cross examination, he stated:

"The amount for 2,01,112.50 shown against heading 'Printing charger' in the Profit and Loss account for the year ending June 30, 1967 indicates the charges for printing the journal Blitz, which is printed in our Press. Overhead charges mentioned in the Profit and Loss Account for the same year means the charges made upon the Publicity Society of India, advertisement agents, for accommodation, telephone facilities, light and furniture provided to the Society. The amount is debited against the bill for commission made by publicity society of India. The amount 7,71,673.08 shown in the Balance-sheet of 1967 as Loans and Advances represents loans given to an outside company known as Nabagraha Properties Private Ltd., Calcutta. On the loan about 8 per cent is charged as interest. The sum of Rs. 5,58,202.10 taken as loan from Indian Bank Ltd., and shown in the Balance-sheet of 1967 Ex 65(d) carries interest at the rate of 9 per cent. This loan to Nabagraha Properties is continuing from 1961. All these years we have also been borrowing from the Bank. I cannot say why the surplus is lent at a lower rate of interest and necessary working capital borrowed at a higher rate of interest. The management may explain."

The third witness S. C. Mitra, Press Manager, gave his own opinion about the grouping and clubbing of workmen, which was different from that expressed by the Wage Board. Balakishna Balaji Nagwekar was the only witness examined

by the workmen. His cross-examination is of relevant consideration, in course of which he stated:

"I am the Assistant foreman in the composing department of advertisement section. I do not find any Buller Roller-man in the Press now-a-days. My answer is the same in respect of the category described as 'Senior Rotary assistant'. My answer is also the same with regard to the category of workman described as 'General Assistant'. Again my answer is the same with regard to the category of workman described as 'Block caster'. Further, my answer is the same with regard to category of workmen known as 'Cylinder machineman'."

169. I need remind myself that the arguments on behalf of the Free Press Journal were made by Mr. Chimanlal Shah party at Bombay on January 10, 1969 while this Tribunal was on circuit tour. At this stage the unamended notification dated September 17, 1968 referring the industrial dispute between Free Press Journal and its workmen to the Tribunal had revealed. In that context Mr. Shah argued that inasmuch as there was no employee serving under the Free Press Journal but all the employees were the employees of Indian National Press (Bombay) Pvt. Ltd., the reference was bad. Thereafter, it need be remembered this error was corrected on March 7, 1969 when the dispute between the Indian National Press (Bombay) Pvt. Ltd. and their workmen was referred for adjudication. After the fresh reference there was no fresh argument advanced but the management filed an affidavit of which the relevant paragraphs are hereinbelow set out. In paragraph 2 of the said affidavit the maintainability of the reference is challenged in the following language:

"With reference to the Order of the Central Government dated 7th March, 1969, amending the Order of Reference herein dated 17th September, 1968, I respectfully submit that the purported amendment is, in effect, a new Reference and this Order has been made after the evidence and arguments in this Reference in so far as they relate to our Company and its workmen, had concluded before the Hon'ble Tribunal on 22nd February, 1969.

On merits, it is stated in paragraph 7:

"By the amendment, other publications of the Company, besides Free Press Journal, are included in the Reference. This amendment demonstrates the unreasonable and unfair nature of the recommendations of the Wage Board inter alia regarding classification of newspapers. The Company has submitted to this Hon'ble Tribunal a statement giving gross revenue of each of its newspapers being Ex. 66 (Serial No. 123). According to this statement, Marathi daily of the company, namely, Navshakti by its individual gross revenue falls in Class VI and the Gujarati daily, Janshakti also falls in Class VI but since its advertisement revenue is less than 40 per cent of the gross revenue it will be placed in Class VII. According to the recommendations of the Wage Board, as contained in para 4.10 at page 33, regarding classification of newspapers, are unreasonable and unfair in several ways. The Wage Board has enlarged definition of Gross revenue and has reduced the proportion of advertisement revenue and gross revenue from 50 to 40 per cent (Para 4.10). The Wage Board has also recommended in the case of Groups that for the purpose of classification of all English newspapers will form one unit and All Indian language newspapers (daily) will form one unit (Para 4.5). The Wage Board has further recommended two classes if the stronger unit of the group falls in Class I, II or III and weightage of Class I if the stronger unit falls in Class IV, V or VI Para (4.13). The consequence of these recommendations is that the Gross revenue of Janshakti and Navshakti will have to be combined to classify these newspapers and by their combined revenue, the said newspapers will be pushed upto Class V. Also by reason of the weightage recommended as above, since the English Unit of the group falls in Class IV, both the Language papers will also be pushed to Class IV and if the English unit by reason of any increase in its gross revenue is placed in Class III, both the language Newspapers will also be pushed to Class III ***"

It is further stated in paragraphs 9 and 10:

"9. It is unreasonable to combine the gross revenue of different language newspapers to push up the class of the newspapers because the staff,

editorial as well as composing staff or each language newspaper is entirely separate. Similarly it was unreasonable to have given weightage to two classes because the extent of saving in a group has a debatable point as rightly pointed out by the Wage Committee in para 83 of its Report.

10. The consequence of these recommendations of the Wage Board for classification so far as this Company is concerned is that its language newspapers which are very weak units and by their individual revenue fall in Class VI or VII will be pushed up to Class III or IV which will place a very heavy financial burden on the Company. The Marathi Daily, Navshakti, has at present a circulation of about 31,863 and it has to compete in Bombay with giants like Loksatta which has a circulation of 1,22,189 and Maharashtra Times which has the circulation of 77,910. Similarly the Gujarati Daily, Janshakti has a circulation of only about 20,567 at present and it has to compete with well established and one of the eldest newspapers in the country namely, the Bombay Samachar which has a circulation of about 93,168 and which is placed in Class IV. Further the quantum of advertisement in Bombay Samachar is on much higher side. Compared to this, the Janshakti has hardly any advertisement at all. I submit that these recommendations are entirely unreasonable."

In paragraph 11 it is said:

"Having placed a very heavy financial burden upon the Company by its recommendations which admittedly even according to the Report of the Wage Board is beyond the capacity of the Company to bear, the Wage Board has a magic formula that tightening up the organisation and enable the Company to pay the higher wages without difficulty. The Wage Board has not indicated any direction in which there is any scope for tightening up nor has the Union in this Reference led any evidence of any possibility of economy or tightening up the organisation. ***"

170. The arguments orally advanced by Mr. Shah are hereinbelow summarised:

(a) He adopted the arguments advanced on behalf of the management of Bannett Coleman & Co. Ltd. in so far as it applied to this Company but he contributed certain fresh arguments of his own.

(b) According to him, the recommendations of the Wage Board were so irrational that they were incapable of being modified but required to be recreated and in order to recreate, it would be necessary for this Tribunal to sit as a Second Wage Board, which the Tribunal had no power to do.

(c) According to Mr. Shah the Wage Board did not properly consider the capacity of the Indian National Press (Bombay) Private Ltd. to bear the burden imposed, nor did the Wage Board proceed on a region-wise selection.

(d) In the case of Free Press Journal no further tightening up was possible. He relied upon Ex. 69 showing that on the basis of 75 per cent interim payment the monthly wages of non-journalist employees came up to Rs. 14,337.76, or Annually Rs. 1,72,053.12. By reason of cent per cent implementation, the recurring burden, according to the Wage Board itself (vide page 22 of the Report), would be Rs. 4,24,056. If to this amount were added the money required to satisfy Provident fund contribution, bonus and Employees' State Insurance contribution, the annual burden would be much more and which would progress year by year as wage scales would be increasing. Besides, there would be increase in the crushing burden of payment to working journalists. According to him, there would be little left to tighten up.

(e) So far as dearness allowance was concerned, he submitted that the same was increased in 1960, 1961 and 1962. The dearness allowance recommended by the Wage Board was too high.

(f) According to him, there was company's own scheme of gratuity contained in Ex. 61. The gratuity scheme recommended by the Wage Board, according to him, was too high.

(g) He criticised the Wage Board's classification that Indian National Press (Bombay) Private Ltd.'s publication fell under Class III. According to him gross revenue of the newspapers would not justify such classification. In other words,

According to him, the Indian National Press (Bombay) Pvt. Ltd. should have been classed under Class IV.

He submitted further that there was no excluded category under Indian National Press (Bombay) Private Ltd. and there was no Job department and therefore items 2 and 3 of the Schedule to the Reference should not have been considered. The grouping made under Salim Merchant's award should not have been distributed at all. According to him, the recommendations should not have been made retrospective in operation earlier than the termination of the previously existing agreements.

171. Mr. Phadnis appearing for the workmen contended that there was a good deal of scope for tightening up. He submitted that the company had lent more than Rs. 7 lakhs to Nabagraha Properties Private Limited, Calcutta, at 8 per cent interest and had borrowed over Rs. 5 lakhs from India Bank Ltd. at 9 per cent. What he wanted to say was that the company might have utilised its own money instead of borrowing and paying excessive interest. He further said that the management's agreement with Publicity Society of India Ltd. was an improvident business step so far as the company was concerned. In other respects, he disputed the arguments of Mr. Shah.

XIII

172. This finishes the summary of the pleadings, evidence and arguments advanced by the different parties to this Reference. It is not claimed that the summaries, particularly of arguments, are full and complete. The reference was argued by different learned Counsel with very great diligence, circumspection and forensic skill over long days. They covered the same field over and over again and made a mince-meat of the recommendations of the Wage Board, which none of the parties liked. In deference to the pains taken by them, I have tried to summarise the individual sets of argument in so far as possible within a conceivably short space. I now propose to give my award on consideration of the materials before me.

XIV

AWARD

Preliminary Objections

173. I need at the outset clear the grounds of a set of preliminary objections taken by Mr. Phadke, appearing for Bennett Coleman & Co. Ltd., hereinbefore indicated in paragraph 140 hereof. Those objections although taken in respect of the publications of Bennett Coleman & Co. Ltd., only, were adopted by the other newspaper establishments in so far as they served their purpose. Since the preliminary objections touch upon the jurisdiction of the Tribunal and the legality and validity of the references made to it, I propose to deal with the said objections first of all.

174. It is necessary for me to remind myself of certain facts in this context. The first reference made to this Tribunal was by an Order, dated September 17, 1968, and thereby an industrial dispute existing between the employers and workmen in the newspapers namely:—

1. The Statesman, Calcutta and New Delhi
2. The Indian Express, Bombay and New Delhi
3. The Free Press Journal, Bombay
4. The Hindustan Times, New Delhi
5. The Hindustan Standard, New Delhi
6. The Ananda Bazar Patrika, Calcutta.

was referred for adjudication. The industrial dispute, referred by the order, was described in the Schedule thereof as:

"(1) Whether the recommendations of the Wage Board for non-journalist employees as accepted by Government by its Resolution No. WB-17(7)/67 dated the 18th November, 1967, are unfair or unreasonable and if so, what modifications are required therein to ensure a fair and just wage structure for the non-journalists, having due regard to the paying capacity of the respective newspaper establishments, the employers' agreement and the emoluments of employees engaged in comparable establishments;

- (2) Whether any categories of non-journalist employees in the newspaper establishments mentioned in the Annexure stand excluded from the recommendations of the Wage Board, and if so, which those categories are and what the wage structure for such categories should be;
- (3) Whether according to the recommendations of the Wage Board for non-journalist employees as accepted by Government by its resolution No. WB-17(7)/67 dated the 18th November, 1967, the Free Press Journal, Bombay, is to be placed in class III and if not, what its classification should be."

Soon thereafter, by an order dated October 7, 1968, an industrial dispute between the employers and workmen, in the Times of India, Bombay and Delhi was referred to the adjudication of this Tribunal. The nature of the industrial dispute referred to the Tribunal is hereunder quoted from the Schedule:

- "(1) Whether the recommendations of the Wage Board for non-journalist employees as accepted by Government by its Resolution No. WB-17(7)/67 dated the 18th November, 1967, are unfair or unreasonable and if so, what modifications are required therein to ensure a fair and just wage structure for the non-journalists, having due regard to the paying capacity of the establishment, the employers' agreement and the agreement and the emoluments of employees engaged in comparable establishments.
- (2) Whether the workmen in the Job Department and the Process department of the Times of India at Bombay and Delhi are not covered by the recommendations of Wage Board? If they are not so covered, what should be the fair and just wage structure for these workmen, having regard to the paying capacity of the establishment and the emoluments of employees engaged in comparable establishments."

For reasons which I need not guess, the second item of dispute in the Schedule to the first order of reference was not included in the schedule to the second order, as much as the second item of dispute in the second order of reference had not been included in the first order of reference. This omission occasioned certain representations and on considering the representations from the employers and the workmen, the Central Government thought it proper to include, on December 5, 1968, the following item (equivalent to the second item of the dispute in the schedule to the first order of reference) in the second reference to this Tribunal, namely:

- "Whether any other categories of non-journalists employees in the Times of India has been excluded from the recommendations of the Wage Board, and if so, which those categories are and what the wage structure for such categories should be?"

At the next stage, the first order of reference, dated September 17, 1968, was amended, on February 12, 1969, by addition of the same industrial dispute concerning a Hindi newspaper known as 'Hindustan'. On the very next day, the second order of reference dated 7th September, 1968, was amended by addition of the industrial dispute concerning a Hindi daily newspaper known as 'Navbharat Times, Bombay and Delhi'. Lastly, the wisdom dawned upon the Central Government that there had been "an inadvertant omission to mention the newspaper establishment by which the newspapers mentioned", were published and "to clarify the position in this behalf" the Central Government made an amendment order, dated March 7, 1969, whereby the annexure in the Schedule to the first order of reference was completely changed and substituted by the following annexure:—

- "1. *The Statesman Limited* publishing the Statesman (Delhi), the Statesman (Calcutta), the Statesman Weekly (Calcutta), and Junior Statesman (Calcutta).
2. *The Indian Express Newspapers (Bombay) Limited* publishing the Indian Express (Bombay), the Indian Express (Delhi), the Financial Express, the Lok Satta, the Screen (Bombay) and the Screen (Madras).
3. *The Indian National Press (Bombay) Private Limited* publishing the Free Press Journal, the Free Press Bulletin, the Janshakti, the Nava-shakti and Bharat Jyoti (Bombay).
4. *The Hindustan Times Limited, Delhi* publishing the Hindustan Times, the Hindustan Times Evening News, the Overseas Hindustan Times, the Week-end Review, the Hindustan (Hindi), the Saptahik Hindustan, the Kadambini and the Nandan.

5. *The Ananda Bazar Patrika Private Limited, Calcutta* publishing the *Hindustan Standard*, the *Ananda Bazar Patrika* (Bengali daily), the *Ananda Bazar Patrika* (Bengali bi-weekly), the *Hindustan Standard* (Overseas edition) and *Desh*."

On the same day, the Government of India made a fresh reference in respect of the following industrial disputes between Bennett Coleman & Co. Ltd. (publishing the *Times of India* and other newspapers mentioned in an annexure) and their workmen:—

- "(1) Whether the recommendations of the Wage Board for non-journalist employees as accepted by Government by its Resolution No. WB. 17(7)/67 dated the 18th November, 1967, are unfair or unreasonable and if so, what modifications are required therein to ensure a fair and just wage structure for the non-journalists, having due regard to the paying capacity of the establishment, the employer's agreement and the emoluments of the employees engaged in comparable establishments?
- (2) Whether the workmen in the Job Department and the Process Department of the establishment at Bombay and Delhi are not covered by the recommendations of the Wage Board? If they are not so covered what should be the fair and just wage structure for these workmen, having regard to the paying capacity of the establishment and the emoluments of employees engaged in comparable establishments.
- (3) Whether any other categories of non-journalist employees in the establishment stand excluded from the recommendations of the Wage Board, and if so, which those categories are and what the wage structure for such categories should be?"

The newspapers mentioned in the annexure were:—

"The *Evening News of India*, the *Navabharat Times* (Delhi), the *Navabharat Times* (Bombay), the *Illustrated Weekly of India*, the *Dharamayug*, the *Economic Times*, the *Maharashtra Times*, the *Dinaman*, the *Filmfare*, the *Famina*, the *Parag*, the *Sarika*, the *Madhuri*, the *Indrajal Comics* (English), the *Indrajal Comics* (Hindi), the *Indrajal Comics* (Marathi), the *Indrajal Comics* (Gujarati), the *Indrajal Comics* (Tamil), the *Indrajal Comics* (Bengali) the *Science Today* and the *Times of India Annual*."

Now, it is well known that the Government has no power of withdrawal of a reference from an Industrial Tribunal after a reference has once been made. The appropriate Government has no doubt the initiative. It is only where it makes an order in writing referring an industrial dispute to the adjudication of a tribunal, that reference proceedings can commence. But the scheme of the relevant provisions of the Industrial Disputes Act would *prima-facie* seem to be inconsistent with any power in the appropriate Government to cancel a reference made under Section 10 of the Act. In the case of *State of Bihar and D. N. Ganguly & Ors.* (1958) II L.L.J. 634, far from finding in favour of any express power, their Lordships of the Supreme Court were reluctant to concede even any implied power in the Government to cancel its own order under Section 10 of the Industrial Disputes Act. According to their Lordships, if on the representations made by the employer or his workmen, the appropriate Government considered the matter fully and reached the conclusion that an industrial dispute existed or was apprehended and then made the reference under Section 10(1), there appeared to be no reason or principle to support the contention that it had implied power to cancel its order and put an end to the reference proceedings initiated by itself.

175. I have now to see what was the effect of the various orders passed by the Government during September 17, 1968 to March 7, 1969. The effect may be summarised as follows:

(a) By the orders dated December 5, 1968 and February 13, 1969, the order of reference in respect of the newspaper establishment publishing the *Times of India* was amended and added to. By the first of the two orders, a fresh item of industrial dispute was added to the schedule and by the second order, another newspaper of the name of *Navabharat Times*, published by the same newspaper establishment, was added to the reference.

(b) By the order dated February 12, 1969 the first order of reference, dated September 17, 1968, was added to by inclusion of the newspaper called *Hindustan*, New Delhi therein.

(c) The order, dated March 7, 1969, although purported to be a clarificatory order, substituted the annexure and described the parties in the first order of reference differently but correctly. The names of the new parties were of certain limited companies.

(d) The reference of March 7, 1969, was a fresh order of reference and in place of an industrial dispute between the employers and the workmen under the newspaper establishment of Times of India, Bombay and Delhi, the industrial dispute between the employers in the newspaper establishment known as Bennett Coleman & Co. Ltd. publishing the Times of India, Bombay and Delhi and other newspapers mentioned in the annexure was referred to the Tribunal. The annexure contained the names of a number of newspapers, (the Times of India, Bombay and Delhi being included in the body of the order but not in the annexure) including the Navbharat Times, Bombay and Delhi, which had already been included in the order of Reference, dated October 7, 1968.

176. The question for my consideration is whether the acts amount to withdrawal of the two earlier references from this Tribunal. If they do amount to, withdrawal of the original references, and substitution of fresh references in their places, the further question that arises for my consideration is whether the action invites the condemnation by the Supreme Court in the case of *State of Bihar vs. D. N. Ganguly* (supra).

177. I need state at once that the description of newspaper establishments in the orders dated September 17, 1968 and October 7, 1968 were both misdescriptions. A newspaper establishment, according to the definition of the Wage Board, means an establishment including a Press under the control of any person or body of persons whether incorporated or not for the production or publication of one or more newspapers. In the instant references, the persons or body of persons in control of the several newspaper establishments, are incorporated companies. In the orders dated September 17 and October 7, 1968, the incorporated persons were not named. This was to all intents and purposes an error.

178. From this starting point, I need examine the legality of the two subsequent orders, dated December 5, 1968 and February 12, 1969, whereby the second order of reference, dated October 7, 1968, was added to, firstly by addition of an additional item of dispute and secondly, by addition of a newspaper of the name of Navbharat Times. Under Section 10 of the Industrial Disputes Act, Government has no power to withdraw, cancel or supersede a reference. Does it have the power to amend or correct a reference already made? In my opinion, it has Section 21 of the General Clauses Act, (Act 10 of 1897), lays down:—

“Whereby any central Act or Regulation, a power to issue notification, orders, rules or bye-laws is conferred, then the power includes a power, exercisable in the like manner and subject to the like sanctions and conditions (if any), to add to, amend, vary or rescind any notification, orders, rules or bye-laws so issued.”

There is no bar to the application of the rule of construction embodied under Section 21 of the General Clauses Act in so far as it is consistent with the Industrial Disputes Act and is not likely to defeat its purpose. The logical conclusion, therefore, is that any amendment, addition or modification, which the Government may make subsequent to the order of reference can not go to the extent of superseding or withdrawing order of original reference but save as to that, Government may amend or add to an order of reference. In *D. N. Ganguly's case* (supra), the Supreme Court did not go into the larger question whether the Government had at all power to amend or add to an order of reference made under Section 10 inasmuch as the decision was confined to the short question as to whether the order made by the appropriate Government under Section 10 could subsequently be cancelled or superseded. I quote, in the language of their Lordships, what the relevant observation was:—

“We have no hesitation in holding that the rule of Construction enunciated by Section 21 of the General Clauses Act in so far as it refers to the power of rescinding or cancelling the original order cannot be invoked in respect of Section 10(1)”.

Save as to that, there is no reason to deny the power of amendment to the Government, while exercising powers under Section 10 of the Industrial Disputes Act. If such power of addition or amendment otherwise exists in the Government, as I hold it does, then both the orders dated December 5, 1968 and February 12, 1969, may be *prima-facie* salvaged on that ground.

179. The amendments, however, did not mend matters because the original error regarding parties, in the orders dated September 17, 1968 and October 7, 1968, persisted in spite of amendments. Wisdom dawned too late upon the Government. When it did, under the guise of correcting an inadvertent omission, the Government wanted to clarify the position and made an amending order dated March 7, 1969, in respect of the first order of reference dated September 17, 1968 and gave a correct description of the parties involved in the said reference. In respect of the second reference, covering the newspaper establishment publishing Times of India and Navbharat Times, the Government did not make any amendment order but made a fresh reference in respect of the newspaper publications of the Bennett Coleman & Co. Ltd.

180. I need, therefore, examine the effect of (i) amending order dated March 7, 1969 in respect of the Statesman Limited and four other newspaper establishments already mentioned and (ii) the order of reference dated October 7, 1968 concerning the Times of India.

181. In the case of *Dabur (Dr. S. K. Burman) (Private) Ltd. and their Workmen*, (1967) II L.L.J. 883, the Government of Bihar made a reference to the Labour Court, Patna. Subsequently, the Government issued an order of corrigendum substituting Ranchi for Patna. Consequently the reference, instead of going before the Labour Court Patna, went before the Labour Court, Ranchi. The employer took the objection that the Government having had made a reference to the Labour Court of Patna was no longer competent to cancel or withdraw that reference and therefore could not make a competent reference of the same industrial dispute to the Labour Court, Ranchi. The Labour Court overruled the objection. The High Court of Patna held that the alternation in the order of reference was a mere correction of a clerical error because by mistake Patna was mentioned instead of Ranchi and the concerned notification merely corrected the error. On Special Appeal against the judgment of the Patna High Court, the Supreme Court observed:—

"We cannot see how any objection could be taken to the competence of the State Government to make a correction of a mere clerical error. The finding that it was a clerical error means that the Government in fact intended to make the reference to the Labour Court, Ranchi but while actually scribing the order of reference, a mistake was committed by the writer by putting down Patna instead of Ranchi. Such a clerical error can always be corrected and such correction does not amount: either to withdrawal of the reference from or cancellation of the reference to the Labour Court, Patna."

In the instant matter, it is the common case both of the employers and the employees that there is no workman employed under the newspaper establishment of (i) The Statesman, Calcutta & New Delhi, (ii) The Indian Express, Bombay and New Delhi, (iii) The Free Press Journal, Bombay, (iv) The Hindustan Times, New Delhi, (v) Hindustan Standard, Calcutta and the Ananda Bazar Patrika, Calcutta. It is also the common case of the parties that the employers are (i) Statesman Ltd., (ii) The Indian Express Newspaper (Bombay) Ltd., (iii) The Indian National Press (Bombay) Private Ltd., (iv) The Hindustan Times Limited, Delhi and (v) Ananda Bazar Patrika (Private) Ltd., Calcutta. In the amendment orders, dated March 7, 1969, the Government itself confessed:—

"And whereas in the annexure to the said order there is an inadvertent omission to mention the newspaper establishments by which the newspapers mentioned there are published;

And whereas the Central Government is of the opinion that it is necessary to clarify the position in this behalf...."

I have no reason to doubt that the Government erroneously omitted to describe the newspaper establishments properly by name. The error is gross but I am not aware of any known bounds to human errors. The error may not have been a mere slip of the pen but was of the same genus as in Dabur's case (supra). The description of the newspaper establishment was possibly by their reputed nomenclature or by the name spoken of in common parlance thoughtlessly. But an error is an error and always liable to correction. I, therefore, rely on the observations of the Supreme Court in the Dabur's case (supra) and uphold the validity of the amendment order dated March, 1969.

182. I have now to deal with the preliminary objections particularly touching upon the orders concerning the Times of India and the allied publications. I have to proceed on the basis that in the second order of reference, dated October

7, 1968, there was a misdescription of the newspaper establishment. When that order was added to and amended by the two orders, dated December 5, 1968 and February 12, 1969, the original infirmity did not disappear. In my opinion, all infirmities in an order of reference are not fatal. It is true that there are no workmen under the Times of India or Navbharat Times, Bombay and Delhi. It is also true that all employees work under the Bennett Coleman and Co., Ltd. The true position was that workmen of Bennett Coleman and Co., Ltd., working, *inter alia*, for the publications of the Times of India and Navbharat Times had an industrial dispute with the employers. It is an admitted fact that Times of India was the largest and the most important newspaper published by Bennett Coleman and Co., Ltd. When the Government made the second order of reference dated October 7, 1968, they may have gone by the reputed description of the newspaper establishment and not by the true and legally correct description thereof. The employers always knew with whom there was the dispute. The incorrect description notwithstanding, there was no difficulty in understanding that the Bennett Coleman and Co., were having an industrial dispute with their employees and that understanding was never lost sight of. I am, therefore, of the opinion that this misdescription is not a matter of moment and I should not be unduly influenced by the academic question of law attending the point. In the case of Kays Construction Co., (P) Ltd. v. its workmen, (1958) II L.L.J. 660 the Supreme Court was also pleaded to observe:

"The decision in this appeal has emphasized that in dealing with industrial disputes the Tribunals should not be unduly influenced by academic questions of law and that they should make an attempt to deal with the merits of each case according to its facts and circumstances."

I therefore over-rule the preliminary objection as to the maintainability of the second order of reference dated October 7, 1968 in so far as Times of India and Navbharat Times are concerned.

183. I am now left with the more difficult question about the maintainability of the last order of reference, dated March 7, 1969, concerning Bennett Coleman and Co., Ltd., and their workmen. It was contended, in the first place, that the Government of India had not formed any opinion about the existence of any industrial dispute between the parties, otherwise there could not have been such quick changes of opinion from time to time. I am not convinced by the argument. The Government of India all along knew that there existed an industrial dispute between the Bennett Coleman and Co., Ltd., and their workmen, over non-implementation of the recommendations of the Wage Board. That industrial dispute was referred to adjudication of this Tribunal. At the time of reference, however, the Government made an error and misdescribed the employer. This misdescription was made, as already observed, possibly because the Government proceeded on the reputed nomenclature of the employer or on the name spoken of in common parlance. The error was patent and gross. Wisdom however, dawned upon the Government by instalments. At first, they made a reference in respect of the employees of the Times of India only ignoring the fact that they were really the employees of Bennett Coleman and Co., Ltd. In the next place, they amended the original reference by including the employees of Navbharat Times, who again were employees of Bennett Coleman and Co., Ltd. Lastly, they wanted further to amend the original reference by including all the employees of Bennett Coleman and Co., Ltd., engaged in the publication of the different dailies and other periodicals of Bennett Coleman and Co., Ltd. The Government might have easily done so by amending the reference, dated October 7, 1968, but they did so by way of a fresh reference. Both the two references do not stand side by side. The earlier must have succumbed to the latter. The action however irregular did not amount to withdrawal of the earlier reference from this Tribunal. What was withdrawn from the Tribunal was given back to it in a chaste and a legal form. I do not, therefore, think that the contentions raised that only the last one should survive or alternatively the first one only should survive and not the last or further in the alternative none of them should survive are substantial contentions and need not be upheld. In the result, I hold that there is little substance in the aforesaid set of preliminary objections urged to defeat the several references. At the same time, I feel constrained to observe that the performance of the Government in the matter of the references, was least desirable.

184. I next turn to a set of preliminary objections taken on behalf of Hindustan Times Limited and hereinbefore indicated in paragraph 94 hereof. Parts of these objections are common with objections taken by other newspaper establishments. I need, therefore, consider the special objections only and particularly those which were chosen for argument. The objection that the fairness or unfairness of the Wage Board's recommendations, which were not even accepted by

the workmen, could not form the subject matter of an industrial dispute may be shortly disposed of. Over the non-implementation of the recommendations by the Wage Board, there were disputes collective bargainings and ultimately a countrywide strike by the workmen, leading to stoppage of publication of most of the newspapers in the country. In the face of these, it should not be argued that the recommendations of the Wage Board did not generate any industrial dispute. The fact that the workers are asking for more than what they got under the recommendations is possibly because of the reason that the recommended benefits fall below their expectations. This leaves the workmen disgruntled. The next objection on the restrictedness of the reference, as in Item No. 1 of the Schedule, does not appeal to me. I find nothing in the language which constricts my power as a Tribunal and I am in a position to examine the question referred to me from all aspects. The other objections taken are not purely of the nature of preliminary objections and will be dealt with in their proper context.

185. I have already dealt with the preliminary objections taken on behalf of the Statesman Limited and Ananda Bazar Patrika Private Limited respectively in paragraphs 37 to 39 and paragraphs 81 to 83 hereof and need not repeat.

**ITEM 1 OF THE SCHEDULES IN
NIT-1 OF 1968 AND NIT-1 OF
1969**

186. Having thus cleared the grounds of the preliminary objections, I now proceed to deliver my award on merits. I first take up for consideration the first item of dispute in the reference, dated September 17, 1968, which again is the first item of dispute in the schedule of the Reference, dated October 7, 1968, and also the first item of dispute in the schedule to the order of reference dated March 7, 1969. The following may be taken to be the broad lines of criticism by the management against the recommendations of the Wage Board:

- (i) The recommendations ignored the well-known principles laid down by the Supreme Court regarding fixation of wages.
- (ii) The classification of newspaper establishments into seven classes according to gross revenue was far too many. There should have been only six classes as indicated in pages 38 and 39 of the Report of the Working Journalists Wage Committee (Ex. 85).
- (iii) The definition of gross revenue, as at page 32 of the Central Wage Board for non-journalist employees, was wrong in principle and vague in character.
- (iv) The grouping or clubbing of workmen made for the purpose of fixation of wage scales was not properly done and ignored the basic principle of fair wage for fair work.
- (v) The scales of pay were irrational for the reasons:
 - (a) the scales were too high,
 - (b) the increments were too quick,
 - (c) the absence of efficiency bar made increments automatic and without any test of efficiency, and
 - (d) the peak level in the scale was reached at too early an age thereafter leaving little incentive in the workmen to work.
- (vi) The recommendations as to dearness allowance was irrational, much too high and opposed to the principles laid down by the Supreme Court.
- (vii) Gratuity should not have been left to the decision of the Supreme Court in the pending appeal regarding gratuity scheme applicable to working Journalists, as per the provisions contained in the Working Journalists (Condition of Service) and Miscellaneous Provisions Act, 1955, because in that appeal the present disputants are not parties.
- (viii) The recommendations as to fitment was irrational and opposed to the principles of fitment as laid down by the Supreme Court.
- (ix) The date of effect of the recommendations should have been from a much later date.

187. Regarding the first item of criticism, I need observe that the members of the Wage Board were not wholly oblivious or ignorant of the principles regarding fixation of wages, as laid down by the Supreme Court. They reminded themselves of the well known principles regarding fixation of wages as in the Supreme Court judgments in (i) Express Newspaper (Private) Ltd., and (ii) Ahmedabad

Mill Owners Association and others (*vide* pages 0 to 7 of the Report). The question however remains how far they succeeded in following the principles, of which they reminded themselves at the very inception in making their recommendations.

188. I have, therefore, to see at this stage whether the Wage Board took the question of the capacity of the industry to pay as one of the essential circumstances to be taken into consideration. From the chart appearing at pages 21 and 22 of the Report, it appears that they did so. Bennett Coleman and Co., Ltd., Bombay and The Statesman Limited, Calcutta, are the only two newspaper establishments, which belong to the First class. It appears from the chart that the average net profit made by Bennett Coleman and Co., Ltd., during the years 1963, 1964 and 1965, was 52.12 lakhs. Out of that, 6 per cent return on the paid up or subscribed capital and the financial burden on account of the implementation of the final proposals for the Wage Boards for Journalists and non-Journalists (yearly, both arrears and recurring) do not together exceed Rs. 24,71,163. It also appears from the chart that the average profit for the self-same years made by the Statesman Limited, Calcutta, was Rs. 31.98 lakhs. Out of that 6 per cent return on the paid up or subscribed capital and the financial burden on account of the implementation of the final proposals for the Wage Boards for journalists and non-journalists (yearly, both arrears and recurring) do not together exceed Rs. 26,21,520. The Hindustan Times, New Delhi, comes under the second Class. It appears from the chart that the average net profit for the years 1963, 1964 and 1965 was Rs. 31.31 lakhs. Out of that 6 per cent return on paid up or subscribed capital and the financial burden on account of the implementation of the final proposals for the Wage Boards for Journalists and non-Journalists (yearly, both arrears and recurring) do not exceed Rs. 14,45,739. Ananda Bazar Patrika (Private) Limited, Calcutta, Indian Express (Bombay) Private Limited and Indian National Press (Bombay) Private Limited all fall under Class III. It appears from the chart that the average net profit for the years 1963, 1964 and 1965 made by the Indian Express Newspaper (Bombay) Private Limited was Rs. 29.03 lakhs. Out of that 6 per cent return on paid up or subscribed capital and the financial burden on account of the implementation of the final proposals of the Wage Boards for Journalists and non-Journalists year, both arrear and recurring, together do not exceed Rs. 23,33,332. Ananda Bazar Patrika (Private) Limited, Calcutta and Indian National Press (Bombay) Private Ltd., are the only two newspapers establishments, which cannot bear the burden. In respect of Ananda Bazar Patrika (Private) Ltd., the average net profit for the years 1963, 1964 and 1965 comes up to Rs. 6.39 lakhs. Out of that 6 per cent return on paid up and subscribed capital and the financial burden on account of the implementation of the final proposals of the Wage Boards for Journalists and non-Journalists years, both arrears and recurring, together amount to Rs. 17,54,560. In respect of Indian National Press (Bombay) Private Ltd., the average net profit per year for 1963, 1964 and 1965 comes upto Rs. 3.79 lakhs. Out of that 6 per cent return on paid up or subscribed capital and the financial burden on account of the implementation of the final proposals of the Wage Board for Journalists and non-Journalists, yearly, both arrear and recurring together amount to Rs. 6,94,303. From the analysis given above the Wage Board came to the conclusion that the Class I and Class II papers were in a position to bear the burden of new wage scales recommended, *vide para* 3.19 to 3.20. In respect of the Class III papers, the Wage Board observed at page 3.21, page 26:

"Establishments belonging to class III except Indian Express do not appear to be in a position to bear the burden. From the evidence which has come to the notice of the Board it appears that the management of all these papers, which are not in a position to bear the additional burden imposed by the new wage scales, is far from satisfactory. Tightening up the organisation can enable these papers to pay the higher wages without difficulty. That there is room for tightening up the organisation is evident from the evidence recorded by the Board."

189. I have to see now how far the Wage Board was correct in its analysis and conclusion in this respect. Before this Tribunal, some of the managements hotly disputed the calculation of the average net profit for the years 1963, 1964 and 1965 as hereinbefore set out. The calculation of profit was challenged on the grounds, (a) that consideration for rehabilitation expenses was very much ignored, (b) that the profit was calculated without making adequate provisions for taxation, particularly for income tax, (c) that return on capital provided for was much too small.

190. The newspaper establishment of the Statesman Limited advanced the most elaborate arguments on the non-consideration of Rehabilitation expenses in calculating the net profit. That argument was adopted by other newspaper establishments, with supplementary support. Now rehabilitation ordinarily includes replacement and modernisation of plants and machinery. Samuel Antony Moore, the Superintendent incharge of the Composing department of the Statesman Limited, deposed in substance that there were 13 Lino-type machines in Calcutta and 12 at Delhi operating from various dates between 1923 and 1966 and it was necessary to replace at least 17 units of the aforesaid Lino-type machines. According to him their approximate cost would be in the region of Rs. 19,00,000. Similarly it would be necessary to replace certain El Rod and Ludlow machines. Reliance was placed in support of the above evidence on Exts. 10, 11 and 12. Evidence more or less to the same effect was given by S. K. Banerjee, Accountant of the Statesman Limited, who deposed that the Rotary department was saddled with machines more than 30 years old. He also spoke of new purchases of machinery made from time to time. According to him, the economic life of the machines working in the Statesman Limited were mostly over. He sought to prove, from a chart prepared by him (Ex. 17), the different purchases of machines made by the Statesman Limited. The said chart would go to show that machines purchased (a) between 1920—29 amounted to Rs. 1,10,699; (b) between 1930—39 amounted to Rs. 7,19,826; (c) between 1940—49 amounted to Rs. 3,49,824 and (d) between 1950—59 amounted to Rs. 5,37,012. The above purchases included two Lino-type machines purchased between 1920—29, 13 Lino-type machines purchased between 1930—39 and 4 Lino-type machines purchased between 1940—49.

191. On this sort of evidence, Mr. Sankar Banerjee argued that if the Rehabilitation costs had been taken into consideration and deducted from the gross profits, the calculation of net profits could not have been made at the huge figures as done by the Wage Board. I am not satisfied in this argument. So far as I can say there is an element of exaggeration in the evidence of witnesses who pleaded for large sums of money being required for rehabilitation expenses. I am inclined to take this opinion, because it appears from the evidence of Samuel Antony Moore that the Directors were not for a long time impressed by the plea for replacement of machinery. The relevant extract from his evidence is set out below:

"I recommended replacement of machines as far back as 1946 but the Board of Directors did not think of providing money for such replacement until the time indicated hereinbefore."

Further, I am of the opinion that the evidence of persons, who pleaded for large replacements, was opinionative to an extent. Samuel Antony Moore said that he did not 'think that all the machines were working to the satisfaction of the operators'. To work with brand new machines may to the liking of fashionable printing workers but his evidence does not go to establish that very real difficulties were being met or that production was suffering because of performance of the machines which were operating for a number of years. The increase in circulation figures year by year go to show that in spite of age, the printing press is putting up a fairly workable show.

192 Further, it appears that the Statesman Limited made some reserves for rehabilitation expenses. From Ex. 15(b) (Schedule VI) (balancesheet for the year 1965), it appears that the management had been building up a reserve, which by the end of December 31, 1965 reached a figure of Rs. 26,98,050. Mr. Banerjee wanted to show that the rehabilitation rebate reserve at the end of the year 1965 showed small figure of Rs. 5,40,000 [vide Schedule VI Ex. 15(b)] and built of the reserve was included in the heading 'General Reserve'. Mr. Banerjee was not right in this contention, because S. K. Banerjee, the accountant of the Statesman Limited, admitted in his evidence:

"Under the expression 'General Reserve' Rehabilitation Reserve is included. It is not separately shown."

It cannot be disputed that a large newspaper establishment like the Statesman Limited requires money for rehabilitation. But it cannot be said that money is immediately necessary nor can it be said that the reserve fund which has been built up is wholly insufficient to meet the requirements of immediate rehabilitation. I do not find any reason to over-emphasize upon the claim for rehabilitation expenses in order to deprive the workmen of fair wages.

193. So far as the rehabilitation requirements for Ananda Bazar Patrika Limited are concerned, I find a curious situation. Aloke Nath Chatterjee, the accountant deposed:

"The sum of Rs. 18,44,888.98 shown under addition during the year against item 'Machine Replacement' is the purchase price of a second rotary

machine. (Shown Ex. 1c). In this year the machine replacement was continuing but in the next year it was wiped off. (Shown Ex. 1d). In this year the machine replacement reserve was transferred to general reserve."

This is curious conduct. It goes to show that the Ananda Bazar Patrika Limited built up a fund, which it did not utilise in the purchase of machines. This can only go to show that requirement for rehabilitation purchase was not immediate. The other newspaper establishment did not lead evidence on Rehabilitation requirements, excepting that Hindustan Times Ltd. exhibited certain quotations for printing machinery from foreign countries, which were very costly (Ex. 102 to 102b) and supported the desirability of quicker replacement of machines in an opportunistic manner (for example the evidence of A. N. Ghoshal and R. N. Sinha). This establishment also had built up a rehabilitation reserve of Rs. 6,00,000 (vide Ex. 90 series).

194. There were two extreme views. According to the employers, in determining the capacity of the industry to pay, regard must be had to (a) a fair allocation to reserves, including rehabilitation reserve and depreciation so as to keep the industry in a healthy condition, and (b) a fair return on capital and remuneration to management. According to employees fair wages must be paid at any cost, so long it was not necessary to encroach upon capital for so doing.

195. In the instant case, I do not make much of the huge sums claimed for rehabilitation. I have already given some of my reasons therefore in paragraph 192 hereof.

196. Industrial Tribunals should exercise sufficient discretion for doing justice both to the industry and the labour. Industry's claim for rehabilitation must not be ignored. At the same time, the claim for rehabilitation must not be treated, under all circumstances, as a prior charge over labour's claim for fair wages. On the evidence, I find that the claim for rehabilitation costs is exaggerated and that there are resources in the hands of the management to meet the immediate demands for rehabilitation. The workers demand for fair wage is a much more crying need at present.

197. Learned Counsel appearing for some of the newspapers establishments and particularly Mr. Phadke, appearing for Bennett Coleman & Co. Ltd., argued that 6 per cent return on the capital invested, as allowed by the Wage Board, was too small a return. It was contended that at least 9 per cent return on the capital should have been allowed, on the principle that the return should be such as would enable the company to raise further capital from the market when difficulty arose. I am not prepared to uphold this argument. Return on invested capital has always to provide for pure interest plus compensation for the risk of the business. Prevailing interest in the money market, yielded by gilt-edged security, is ordinarily taken to be a fair indication of what should be considered reasonable as pure interest. For many years now, this figure has varied from 3 to 4 per cent. If no risks are involved, 6 per cent should be considered as fair return on invested capital. But, in most businesses there is an element of risk—some more some less—because of fluctuations, on the one hand in the prices of raw materials on the other hand in the effective demand for the finished goods, apart from cyclical booms and depressions. As such an additional return of 2 to 3 per cent is generally considered necessary to compensate for the risks. It is in this view, that a return of 6 per cent is ordinarily considered to be a fair return on the capital invested in the shape of paid up capital. Where, however, the risk is appreciably less than usual, there will be a good cause for providing less than 6 per cent. Similarly, in an industry where extraordinary risks are run, more than 6 per cent may be reasonably provided. This is the view which was expressed by Das Gupta, J. in *Peirce Leslie and Company Ltd. vs. Their workmen*, (1960) 1 L.L.J. 809.

198. Now, so far as newspaper industry is concerned, the element of risk is very small. The demand for newspapers is yearly on the increase and there is little chance of any cyclical depression in the industry. That day will not come when people will stop reading newspapers. The main difficulty that it has to face is the difficulty in procuring newsprints. But that single factor is not of such moment as constitutes a major risk in the industry. Considering everything, a return of 6 per cent on capital is a fair return and the claim for more, should be rejected.

199. I now turn to the other contention that calculations of net profit did not take into consideration the deductions for payment of income tax. Mr. Sankar Banerjee invited my attention to Ex. 16, a chart of net profits for the years 1963

to 1965, after deduction of income tax, and contended that after such deduction the net profits for the year 1963 would be only Rs. 12,30,464 for 1964, only Rs. 10,88,740 and for 1965 only Rs. 9,39,107. There are two infirmities in the argument. In the first place, it was not shown to me from the assessment orders that the sum payable as income tax did come up to the amounts urged for, e.g. as in Ex. 16. In the next place, the non-exclusion of income tax is being over-emphasised. In the case of *Ahmedabad Mill Owners' Association* (1966) 1 L.L.J. 31 Gajendragadkar, C.J. observed:

"It is the figure of gross profit which is more important because it is not disputed that wages payable to the employees is a first charge and all other liabilities take their place after the wages."

I do not make much of this contention because even if income tax liabilities had not been excluded in calculating net profits, what mattered in gauging capacity was the gross and not the net. The other newspaper establishments did not dilate further upon this aspect of the point. I have therefore to hold that in calculating the net profits of the newspaper establishments, the Wage Board did not err arithmetically.

200. I have next to see, if the profits in the hands of the newspaper establishments justified increase in wage scales to the extent recommended. In that context, I need bear in mind the following observations by the Supreme Court in *Hindusthan Times vs. Their workmen* (1963) 1 L.L.J. 109 at page 112:

"The fixation of wage-structure is among the most difficult tasks that industrial adjudication has to tackle. On the one hand not only the demands of social justice but also the claims of national economy require that attempts should be made to secure to workmen a fair share of the national income which they help to produce. On the other hand, care has to be taken that the attempt at a fair distribution does not tend to dry up the source of the national income itself. On the one hand, better living conditions for workmen that can only be possible by giving them a "living wage" will tend to increase the nation's wealth and income. On the other hand, unreasonable inroads on the profits of the capitalists might have a tendency to drive capital away from fruitful employment and even to affect prejudicially capital formation itself. The rise in prices that often results from rise of the workmen's wages may in its turn affect other members of the community and may even affect prejudicially the living conditions of the workmen themselves. The effect of such a rise in price on the country's international trade cannot also be always ignored. Thus numerous complex factors, some of which are economic and some spring from social philosophy, give rise to conflicting considerations that have to be borne in mind. Nor does the process of valuation of the numerous factors remain static. While international movements in the cause of labour have for many years influenced thinking and sometimes even judicial thinking in such matters, in this country, the emergence of an independent democratic India has influenced the matter even more profoundly."

201. It was contended on behalf of the management that newsprints were consuming more and more money every year and profits stood at the price of constant diminution for that reason. This, it was submitted, was a point against any steep rise in wages as recommended by the Wage Board. The problem of securing newsprint of proper quality and in adequate quantities is no doubt causing concern to the newspaper industry. Newsprint, which was formerly, on OGL, was brought under licencing for the first time on April 2, 1955. At first, licences were issued to the extent of 110 per cent of past imports. Thereafter, curtailment of imports started, hoping possibly that the shortfall in import might be made up from production of newsprint by the NEPA factory. NEPA belied the expectation in a two-fold manner. It could not make good the shortage and also did not produce newsprint of the proper quality. Added to this, price of imported newsprint has always been and is on the increase and the price level of this newsprint is generally on a very high level. Factually these points are not disputed and I need not recite the evidence on this point. Thus, the position is that the availability of newsprint has deteriorated and what is available costs a good deal. The newspaper managements apprehend, and in my opinion very rightly, that in the immediate future no additional imports are likely to be permitted. If the present foreign exchange difficulties continue there may be even more curtailment of import and with the non-availability of newsprint it may become necessary to

reduce the size of newspapers. In the Report of the Working Wage Committee (Ex. 85) it was observed:

"The employers have stated that when the size of a paper is reduced the price has sometimes to be correspondingly reduced. That will also reduce the space available for advertisements. What is gained by an increased circulation may, therefore, be lost through the reduced selling price of the paper and the reduced advertisement revenues."

I am not minimising, in any way, the trouble which is being experienced by newspaper men in obtaining proper quality of newsprint in sufficient quantity. But, with that difficulty staring in the face, the circulation figures of almost all the newspapers, as will appear hereinafter, are yearly increasing and there has been no reduction in size nor fall in advertisement revenue. The future is good deal uncertain. I do not believe that the future of India is wholly dark so far as news prints are concerned and there is no hope for salvation of the country. As matters now stand, newspaper establishments have accustomed themselves to news print shortage and are growing in spite of that hurdle. The cost of news print is not likely to consume so much of the profits as to justify a moratorium in wage increase for the present and for the near future.

202. It was further contended that the introduction of advertisement programme, over the All India Radio net work, was a potential danger to advertisement revenue of newspapers. The competition, it was alleged, has already started adversely to tell upon newspaper revenue and it would be risky to raise wages at present.

203. I do not appreciate this argument. Advertisement is not the monopoly business of newspapers. I have yet to learn that businesses which have started to advertise in the All India Radio, have ceased publishing advertisements in newspapers or have reduced the volume thereof. Moreover, it is common knowledge that advertisements are made in more ways than one. Advertisement of one and the same product may be seen displayed on Cinema screens, placards pasted on walls, advertisement boards inside or outside tram cars or buses and also inside railway compartments, on hand-bills distributed on streets, on coloured or pictorial brochures sent to prospective buyers and also on newspapers. If, in future, other mediums of displaying advertisements be discovered, I do not think they will lack patronage. It is in the interest of business to advertise to the full and businessmen are likely to choose as many worthwhile mediums of advertisements as they may afford. I do not, therefore, think that the effect of introduction of advertisement programmes over All India Radio net work will prove to be annihilating to the advertisement revenue of newspapers. Whether the radio programmes will share in the advertisement revenue of newspapers in a considerable extent, future only can show. At least there is no present indication and nothing was established before me by evidence.

204. It was also urged that the spread and patronage of Hindi will affect the readership and revenue of English newspapers. After about quarter of a century of life as an independent country, Hindi has not made inroads on English education. There may not come a time, when English will be forsaken in this country. A sense of pessimism in life is responsible for this sort of negative approach to the problem. I do not make much of this argument.

205. This finishes examination of the arguments, such as calculations of revenue was erroneously made or that potential dangers to revenue were not properly considered. I next turn to examine another set of arguments, against capacity to pay very strongly urged before me. In the case of *Ahmedabad Mill Owners' Association case* (1967) 1 LLJ 1, the Supreme Court considered amongst others the following facts, as of relevancy, in measuring the financial capacity, namely, the growth of paid up capital, growth of the value of gross block, growth of the depreciation fund and depreciation rebate. I find from the balancesheets of the Statesman Limited, Exts. 15(c) and 15(d) that in the year ending December 1966, ordinary shares numbering 6010 of Rs. 100 each fully paid were issued as bonus shares by capitalisation of general reserve and in the year ending December 31, 1967 the number of fully paid bonus shares of Rs. 100 each reached the figure of 19,232. So far as Hindustan Times Limited and the Indian Express (Bombay) Private Limited are concerned, I find that each of them is building multi-storied constructions at huge costs, (see for example Exts. 19(d) and 71(b)). So far as Bennett Coleman & Co. Ltd. is concerned, it is to be noted that the company declared dividends to the amount of 25 per cent in the years ending 1963 and 1964, 10 per cent in 1965 and again 25 per cent in the years 1966 and 1967 [vide Exts. 49(a) to

49(d). The company, it appears, also started making a new construction, namely a godown, see Ex. 49(c). The above facts will go to show that the Indian National Press (Bombay) Private Limited and the Ananda Bazar Patrika Private Limited excepting, the other major newspaper establishments mentioned above are showing signs of financial capacity to grow. The cases of Indian National Press (Bombay) Private Limited and the Ananda Bazar Patrika Private Limited will be considered later on, in the proper context.

206. It was argued in general that I should reject the wages fixed by the Wage Board because, in gauging the capacity, the Wage Board did not proceed on industry-cum-region basis and did not take a fair cross-section of the industry in consideration. It is no doubt true that in Express Newspaper's case (supra) the Supreme Court laid down that the capacity of the industry to pay should be gauged on industry-cum-region basis after taking a fair cross-section of that industry and that, in a given case, it may even be permissible to divide the industry to appropriate classes and then deal with the capacity of the industry to pay classwise. If, however, industry was divided into different classes, it was observed in Express Newspaper's case (supra), the requirement of considering the capacity of each individual unit to pay would not become necessary. Explaining the above observation it was further observed by the Supreme Court in *Workmen of Sri Bajrang Jute Mills Limited vs. Management of Sri Bajrang Jute Mills Ltd.*, (1970) 20 Fac. L.R. 252, that even if the industry was divided into different classes it would still be necessary to consider the capacity of the respective classes to bear the burden imposed on them and for this purpose cross-section of the respective classes would have to be taken for careful consideration for deciding what burden the classes considered as a whole could bear. Now, it is well known that conditions such as easy access to raw materials, transport, nearness of market for disposal of manufactured product, availability of labour, the type of market whether within or outside the country for which the manufactured articles are intended and diverse other factors must vary from region to region. Likewise, economic conditions affecting the consuming prices must and do differ, as is well known, from region to region, depending largely upon whether a particular region is self-sufficient or not in the elemental needs of its citizens and this in turn is bound to affect the living standards. Therefore, it would be ordinarily too artificial and unrealistic an approach to be oblivious of these differences and to ignore the industry-cum-region basis in fixing wages. In explaining why the Wage Board did not follow the ordinary rule, namely, the region basis in fixing the wage structure in newspaper industry, the Wage Board itself gave the following reasons:

- (a) the newspaper industry did not present any regional characteristics.
- (b) proximity to a port or railway station or coal mines or mines producing raw materials or water supply, all material considerations in the case of factory, were of little importance in the case of newspaper industry.
- (c) moreover, in the same region, there were great disparity in the resources of different newspaper establishments.

The reasons, in my opinion, are substantial reasons. To the reasons given by the Wage Board, I am adding a few more. In the first place, in Class I there are only two newspaper establishments, namely, Bennett Coleman & Co. Ltd., Bombay and the Statesman Limited, Calcutta. They do not, however, belong to the same region. Bennett Coleman & Co. Ltd. is in South Western India and the Statesman Limited is in North Eastern India. Between the two it is difficult to apply industry-cum-region basis of comparison. In the next place, financially no other papers compare with the two. The Hindustan Times Limited in North Western India only comes to near comparison with the Statesman Ltd. in North Eastern India in net profit. But even then they do not belong to the same region. This being the position, it cannot be possible to cut a cross-section of the industry for the purpose of fixing a wage structure on industry-cum-region basis. Of the third class papers Ananda Bazar Patrika Ltd. is in the North Eastern region and Indian Express Newspaper (Bombay) Ltd. and Indian National Press (Bombay) Ltd. are both in South Western Region. It is not possible to classify them on region basis. In *French Motor Car Company's case*, (1962) II LLJ 744, the Supreme Court administered a word of caution, namely, it explained the industry-cum-region basis in fixing the wage structure as meaning, "generally speaking similar concerns would be those in the same line of business as the concern with respect to which the dispute is under consideration. Further, even in the same line of business, it would not be proper compare, for example, a small struggling concern with a large flourishing concern". I do not think therefore that there was any possibility of cutting any cross-section in newspaper industry which would include Bennett

Coleman & Co. Ltd. and the Statesman Limited with any other comparable concern in the same region. Therefore, the wage paying capacity was fixed class-wise. The Wage Board considered the class-wise capacity as appears from Paragraphs 3.19 to 3.26 of the recommendations.

207. Faced with this difficulty, it was contended that the capacity of the newspaper industry to pay should only be considered and not the capacity of a unit or individual concerned. Now, there is a fallacy in this argument. In the case of *Express Newspaper (Private) Limited*, (1961) I LLJ 339 (368) the Supreme Court quoted with approval the following passage from the Cotton Textile Labour Enquiry Committee Report:

"The relevant criterion should be the capacity of a particular industry in a specified region and, as far as possible, the same wages should be prescribed for all units of that industry in that region. It will obviously not be possible for the wage fixing Board to measure the capacity of each of the units of an industry in a region and the only practicable method is to take a fair cross-section of the industry."

Further explaining the Report the Supreme Court observed:

"To a given case it would be permissible to bind the industry into appropriate classes and then deal with the capacity of the industry to pay class-wise."

This is exactly what the Wage Board did in the instant case. They divided the industry in seven classes and then fixed wages for workmen engaged in each class of the industry. It is noteworthy that newspaper establishments below class III have not come up before this Tribunal with grievances against the recommendations of the Wage Board.

208. It is true that it is desirable to have as much uniformity as possible in the wage scales of different concerns of the same industry working in the same region. This is why the industry-cum-region basis of fixation of wages assumes importance. In *Greeves Cotton & Company Limited vs. their workmen*, (1964) LLJ 342 (346), however, Wanchoo, J (as his Lordship then was) laid down the principle in the following language:

"In applying industry-cum-region formula for fixing wage scales the Tribunal should lay stress on the industry part of the formula. If there are large number of concerns in the same region carrying on the same industry, in such a case in order that production cost may not be unequal and there may be equal competition, the wages should generally be fixed on the basis of comparable industry, namely, industries of the same kind. But where the number of industries of the same kind in a particular region is small, it is region part of the industry-cum-region formula which assumes importance particularly in case of clerical and subordinate staff, for, as pointed out in *French Motor Car Company's case*, there is not much difference of work in this class of employees in different industries."

It should, however, be borne in mind that in the matter of comparison of industrial concerns in a region, concerns of similar or the same standing in the same industry should be taken into consideration. In *Williamson (India) Private Limited vs. Workmen*, (1962) I LLJ 302, Gajendragadkar, J (as he then was) observed that in considering the question about comparable concerns, tribunals should bear in mind all the relevant facts in relation to the problem. The extent of the business carried on by the concerns, the capital invested by them profits made by them, the nature of the business carried on by them, their standing, the strength of their labour force, presence or absence and extent of reserve, the dividends declared by them and all other relevant facts have to be borne in mind. Glossing upon the above observation, Mudavatullah, J (as he then was) observed in *Kamini Metals & Alloys Limited vs. their workmen*, (1967) II LLJ 55:

"The observations no doubt lay down the principal guide-lines but they are not intended to operate with the rigidity of a statutory enactment. The court has indicated what lines of inquiry are likely to lead to the discovery of correct data for the fixation of fair wages in the sense explained above. In this task all the relevant considerations must enter but fruitless inquiries into matters of no particular importance to a case are hardly to be insisted upon because rather than

prove of assistance, they might well frustrate the very object in view. Each case requires to be considered on its own facts."

I have already observed that the Statesman Limited, Bennett Coleman & Company Limited and the Hindustan Times Limited do not compare with other newspaper establishments in their respective regions, either from the point of view of capital structure, circulation figures, revenue figures or the number of labour force employed. Also amongst the several newspaper establishments, which are not capable of bearing the burden imposed by the Wage Board, there are few comparable concerns in their respective regions. There is disparity between their resources and the resources of other newspaper establishments. It was difficult to cut an industry-cum-region slice and to proceed on that basis. Therefore, I think that the Wage Board was right in discarding that fruitless inquiry and proceeding in the manner it did.

209. Before I leave this aspect of the matter, I have to remind myself one passage in the recommendations of the Wage Board. It was observed in para 3.31:

"The Board has examined the financial position of a fair cross-section of the newspaper industry giving region-wise consideration also".

Why the Board did so, I do not see. In any event, the Board did not proceed on the result of that examination.

210. I need now turn to another set of criticism on capacity of the industry to pay. It was contended that a finding on the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organisation so that the industry can pay higher wages without difficulty and the possibility of increase in efficiency of the lowest paid worker resulting in increase in production.

211. In the 12th Annual Report of the Registrar of Newspapers for India (Ex. U) the comparatively growing circulation position of newspapers has been noticed in the following language:

(a) The comparative circulation data (of papers common to 1966 and 1967) revealed an increase of 3.1 per cent in 1967 as compared to 1966. Newspapers in all periodicities gained in circulation during 1967 dailies and weeklies having recorded gains of 5.0 per cent and 2.0 per cent respectively (page 39).

(b) The total circulation claimed by 4967 newspapers in 1966, on the basis of information received, was 216.87 lakhs. Subsequently annual statement received from defaulting newspapers were taken into account and the circulation data for 1966 was revised. The total revised circulation of 6173 newspapers worked out to 252.36 lakhs copies**. In 1965, the corresponding total circulation of 5958 newspapers was 246.99 lakhs** (page 40).

The report of the Working Journalists Wage Committee (Ex. 85) also noticed the upward spiral in the sale of newspapers for an earlier period in the following language:

"Our own examination has indicated that the circulation of 21 English Daily papers went from 6.10 lakhs in 1952 to 7.73 lakhs in 1957, i.e. by nearly 25 per cent". (page 11).

In the report of the Central Wage Board for non-journalists Employees, there are certain useful charts showing the increase in circulation revenue and advertisement revenue. I set out hereinbelow the relevant portions from the said charts:

Class I

Circulation Revenue—Net.

(In Rs.)

Sl. No.	Name of the Paper.	Year		
		1963	1964	1965
1.	Times of India, Economic Times and Evening News, Bombay.	65,38,808	67,16,363	72,01,497
2.	Nar Bharat Times & Maharashtra Times, Bombay.	26,39,205	27,24,551	30,04,686
3.	Times of India Delhi.	17,15,167	18,36,999	18,59,913
4.	The Statesman, Calcutta & Delhi.	53,25,987	58,06,296	64,04,432

Class II

1. Hindustan Times & Evening News, Delhi.	43,06,585	46,03,725	47,25,058
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Class I

Advertisement Revenue—Net.

1. Times of India, Economic Times and Evening News, Bombay.	159,19,456	174,80,634	179,00,910
2. Nar Bharat Times & Maharashtra Times, Bombay	12,28,241	14,99,579	15,93,806
3. Times of India, Delhi.	42,27,774	51,34,885	51,63,583
4. The Statesman, Calcutta & Delhi.	136,55,793	158,29,559	165,03,184

Class II

1. Hindustan Times & Evening News, Delhi.	94,75,819	109,59,528	109,59,500
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It was not disputed that since after 1965 there has been further increase both in circulation revenue and in advertisement revenue. This rise is inevitable. Literacy is fast spreading in this country and so also is reading habit. Reading of newspapers is growing into a habit. People who can afford and people who do not grudge purchase newspapers. Those who can not afford, frequent public reading rooms to glance through the pages of newspapers or otherwise manage to read. It is not an uncommon sight to find people clustering in front of walled-up newspaper-sheets near the entrance of a newspaper office. From what is stated above, it will be seen that the capacity to pay passes the test of elasticity of demand in a very satisfactory manner.

212. The next question is how far it is possible to tighten up the newspaper organisations, so that the industry may pay higher wages without difficulty. What is meant by the expression 'tightening up' of an organisation is stated in the Report of Working Journalists Wage Committee (Ex. 85 para 20), and is said to include removal of over-staffing, inefficient staffing, poor management and maintenance of improper accounts. Such tightening up is essential in respect of the newspaper establishments, which are not in a position to bear the additional burden imposed by the new wage scales recommended by the Wage Board. Such financially weak establishments are named in class III of the classification made by the Wage Board, for example, Ananda Bazar Patrika Private Limited, Calcutta and the Indian National Press (Bombay) Limited.

213. Although this reference has been argued *in extenso* on behalf of the workmen, there is little evidence about wastage of revenue and poor management. There is no evidence that they are burdened with unnecessarily large and apparently inefficient staff, nor is there any evidence that on account of nepotism, political consideration or other reasons worthless men were employed at an uneconomically high salaries. It was not to the interest of the workmen to argue over-staffing, lest there would be retrenchment. It was also not to their interest to condemn some of their own colleagues as inefficient because that would have proved fatal to collective bargaining. It has not been established before me that the accounts have not been properly maintained or that the accounts are not straightforward.

214. The learned Counsel appearing for the workmen, particularly these in the Statesman Limited, contended that some of the managerial staff were being paid uneconomically high salaries, which were consuming huge amounts out of the revenue. I am not prepared to make much of this argument for two reasons. In the first place, the officers, who are being paid very high salaries are in a position to command such salaries and the management may not find their likes at lesser cost. In the second place, the Wage Board recommended tightening up of the organisation in respect of newspaper establishments, which were unable to bear the burden of new wage scale. The Statesman Limited and the other newspaper establishments in class I and II are not such newspaper establishments.

215. It was argued on behalf of the workmen of Ananda Bazar Patrika Private Limited, a newspaper establishment which was shown by the Wage Board itself as unable to shoulder the burden of the new wage structure, that the Directors were drawing very high salaries or remuneration and that was one of the causes of the company's financial incapacity. They relied on the evidence of the Accountant Alok Nath Chatterjee, who deposed that the Directors' remuneration was Rs. 57,000 (vide Ex. 1c); it rose to Rs. 78,000 in the year 1966 (vide Ex. 1d) and further stepped forward to Rs. 1,02,000 in the year 1967. It is no doubt true that in three years Directors remuneration became almost double. But even if the increased figures of remuneration for the years 1965 to 1967 be ignored, the saving of few thousand rupees will not much improve the situation. Then again, a good deal was sought to be made out of the passage in evidence of Alok Nath Chatterjee, who admitted that a sum of Rs. 18,44,888, kept in reserve for purchase of a Rotary machine, was transferred to the general reserve later on. The criticism made was that the accounts were showing the correct financial picture. I am not satisfied with the criticism. There may be more than one explanation for the transfer of the reserve from one head to another and the charge of manipulation of accounts is difficult to establish on such evidence.

216. Mr. Phadnis, appearing on behalf of the workmen of the Indian National Press Bombay Private Limited, drew my attention to Ex. 65 series and the evidence of management's witness P. M. Mathai showing that the management had lent a sum of Rs. 7,71,673 to a private company known as Nabagraha Properties Private Limited at 8 per cent interest and borrowed Rs. 5,58,202 from a Bank at 9 per cent interest. This, according to him, was an instance of bad management. I am not fully convinced. The cross-examination was not pushed home but was left at a halfway stage. The reason why the company lent its own money at a lesser interest and borrowed money from the market at a higher interest was not made clear. In Ex. 65(d) there is an indication that this loan became illegal since after the conversion of the company into a public limited company, but I do not think I am in a position to draw an adverse inference against the management of the company without more. Even if it was possible, a single instance of mismanagement may not be sufficient to condemn the management of bad management altogether.

217. I do not mean to say that all the newspaper organisations are run on the basis of model or ideal management. I have no proof of that. All that I mean to say is that the evidence is not sufficient to show how much each establishment may be expected to save by tightening up. If by improved management and tightening up very large sums are not saved, the burden imposed by the Wage Board's recommendations may not be fitted inside the income structure of newspapers like Ananda Bazar Patrika Private Limited and the Indian National Press Bombay Limited, in spite of tightening up.

218. The overall picture, therefore, is that excepting in cases of newspaper establishments like *Ananda Bazar Patrika Private Limited* and *the Indian National Press Bombay Limited*, the other classes of newspaper establishments otherwise have the financial capacity to bear the burden recommended by the Wage Board.

219. I do not also think that, on the evidence adduced, there is any possibility of increasing efficiency of the lowest paid workmen resulting in increase in production merely by increasing their wages. The lowest paid workers of newspaper establishments, particularly factory workers, do not require much educational qualification. They learn the trade by working. It is experience which endows them. Then again, there are few technical schools, if any at all, to train up newspaper factory workers in this country. Most of the factory workers serve a period of apprenticeship and pick up the necessary qualification. They acquire higher and higher skill by hard working as time passes. If workmen like baller, fly-boy or a knife-sharpener be recruited from college students, I do not think there would be any increase in efficiency of work. Education may be a qualification for highly technical men or those who have to write, say for example, Stenographer or Correspondence clerks. They are not, however, amongst the lowest paid workers. I do not think that this aspect of the matter requires further attention.

220. Apart from the arguments, which I have upto now disposed of, it was contended that the wages and wage scales recommended by the Board were not proper. The reasons given were (i) wages should not have been fixed at an unduly high level just because one concern had the capacity to pay, for the reason that would lead to migration of labour. (ii) the principle of equal pay for equal work should not have been violated, beyond permissible limits even

where an industry had capacity to pay; (iii) the burden proposed should have been carefully calculated over a period of years and not for one year only because the wage structure is to be a stable arrangement.

221. For the first proposition urged, the employers found inspiration from the observation by the Supreme Court in *Greaves Cotton & Company Limited (1964)* 1 LLJ 342, to the effect:

"in order that production cost may not be unequal and there may be equal competition, wages should generally be fixed on the basis of the comparable industry, namely the industry of the same kind."

As I have already observed that neither in North Western India nor North Eastern nor in South Western India is there any newspaper industrial establishment competing with Hindustan Times Limited. The Statesman Limited or the Bennett Coleman & Company Limited. The Wage Board classified the industry and put Bennett Coleman & Co. Ltd. and the Statesman Limited in Class I and Hindustan Times of India in Class II. These three newspaper establishments are not carrying on their business in the same region. The other newspaper establishments in the region were classified in lower classes and the same rate of wages as prescribed for the highest, was not prescribed for the lower classifications of newspaper establishments. None of the three newspaper establishments to the higher classes, namely, class I and II, can employ unlimited number of men. Therefore, even if the scales of wages payable to the workmen by them be fixed at a higher level, there is no possibility of a mass scale labour unrest or labour migration because of that. Therefore, whatever other infirmities there may be, if any at all, in the matter of wage fixation by the Wage Board, there was not that infirmity as firstly urged on behalf of the employers.

222. In respect of the second proposition inspiration was found by the employers from the observation of the Supreme Court in *French Motor Car Company (1962)* II LLJ 744. The arguments in support of this proposition are based on some misunderstanding of what was decided in the case of *French Motor Car (supra)* and other judgments of the Supreme Court on the point. In the case of *Workmen of Hindustan Motors vs Hindustan Motors (1962)* II LLJ 352, Das Gupta, J, laid down the proposition (at page 355):—

"There can be no dispute that it is ordinarily desirable to have as much uniformity as possible in the wage scales of different concerns of the same industry working in the same region. It may not always be possible to attain this object because of the different financial capacities of different concerns. Where however no such obstacle is present, industrial adjudication always tries to secure the same wage rates for the different concerns in the same industry in the same region."

The proposition was further elaborated in the case of *French Motor Company vs Their workmen*, (1962) II LLJ 744, in which Wanchoo, J observed (at page 747):—

"In applying that principle industrial courts have to compare wage scales prevailing in similar concerns in the region with which it is dealing and generally speaking same concern would be those in the same of line of business as the concern with respect to which the dispute is under consideration. Further, even in the same line of business it would not be proper to compare (for example a small struggling concern with a large flourishing concern.... a small concern cannot be compared even in the same line of business with a large concern)."

Although of that opinion, their Lordship observed that so far as clerical and subordinate staff were concerned it might be possible to take into account even those concerns which were engaged in different lines of business for the work of clerical and subordinate staff was more or less same in all kinds of concerns.

223. Further explanation of this proposition is to be found in the judgment of Gajendragadkar, J (as he then was) in *Williamson India Private Limited vs Its workmen* (1962) I LLJ 302, at page 305, where his Lordship observed:—

"...In considering the question about comparable concerns Tribunal should bear in mind all the relevant facts in relation to the problem. The extent of the business carried on by the concerns the capital invested by them, profits made by them, the nature of the business carried on

by them, their standing, the strength of their labour force, the presence or absence and the extent of reserves, the dividend declared by them and the prospects about the future of their business—these and all other relevant facts have to be borne in mind."

The same view was reiterated by their Lordships, in *Greaves Cotton & Company Ltd. vs. their Workmen* (1964) 1 LLJ 342 at 346: In the present context, what the Wage Board has done is to divide the newspaper industry into classes according to gross revenue and to prescribe for each class of the newspaper, in whichever region they may be located, one scale of pay for one group of worker. I have been asked, by the Learned Counsel appearing for the management of several newspapers, to compare the wage scales in certain printing presses and commercial establishments (e.g. Ex. JJ & JJI) in fixing the wage scales in newspaper industry. I do not find any force in such an argument. Those businesses are different, their financial capacity is not the same and they are not in any way comparable concerns with newspaper industry. Therefore, in the circumstances of the case in so far as the principle of 'equal pay for equal work' can be given effect to, in the newspaper industry, has been done by the Wage Board by classification of newspapers, by grouping of workers and by prescribing a uniform scale of pay for each group, irrespective of the region where they may be located. To do otherwise would have resulted in violation of two of the several principles laid down by the Supreme Court, namely:—

(a) If comparison had been attempted with pay scales of Printing Presses or Commercial concerns, then such comparison would have been bad, being comparison with dissimilar businesses.

(b) If comparison had been attempted with other newspaper establishments in the same region there would have been mostly very small concerns, unworthy of proper comparison.

224. The third proposition was sought to be established with the two-fold contention, (i) a steep rise in the wage scale, as recommended by the Wage Board, should have been spread over a long period, so as to be a stable arrangement, (ii) if a workman reached to the maximum in the scale much too quickly, he was likely to lose all initiative in work and prospects in life while still be in his prime. In my opinion, there is some substance in this argument.

225. So far as the first branch of this argument is concerned, the Wage Board's scale plays between 15 to 10 years, with greater emphasis on 15 years, in case of administrative staff and with greater emphasis on 12 years, in case of factory employees. Regard being had to burdensome rise of wage scales, allowed by the Wage Board, the period of play prescribed by the Board may be a short period. I am, however, not prepared to spread the scales over 20 years or quarter of a century. That may be much too long. I think that a spreadover between 18 to 10 years should satisfy both the sides, being much better than what the Wage Board allowed. I am using a rule of thumb in so doing but that is the best that I can do in the circumstances. The other branch of the argument, I shall consider later on another context.

226. The recommendations of the Wage Board for increase in wages were also sought to be condemned on the following grounds: (a) the productivity criterion was not taken into consideration, and (b) the relationship of wage with national income was not considered. Now, productivity is the arithmetical ratio between the amount produced and the amount of resources used for its production. Labour productivity, apart from labourers preparedness to work, depends on (i) type and state of machinery and equipment, (ii) lay out of plant and other physical conditions of working, (iii) level of managerial efficiency including the level of entrepreneurial activity, (iv) level of rationalism reached in development of labour and (v) development of labour-management cooperation based on mutual consultation. After all these are stated, the position remains that there hardly exists unanimity amongst experts about the application of any particular method for the scientific management of productivity.

227. It was argued on behalf of the management that in *Salm Merchant award*, Ex. 60 (Bombay Chronical and other Newspapers vs. workmen), wages were fixed on productivity basis. My attention was invited to pages 1444 and 1445 (foot-notes) where productivity tests for hand-compositor, lino operators and mono-compositors were prescribed. My attention was also drawn to pages 8 and 9 of the

Desai award (Ex. 47) which prescribed some tests for mono-operator and lino-operators. I set out hereinbelow one example by way of illustration:—

Lino Operator

A Class	..	..	..	120-10-150	(5/7000 ENS)
B Class	..	..	..	160-10-230	(7/8000 ENS)
C Class	..	..	..	230-10-330	(Over 8000 ENS)

My attention was lastly drawn to paragraph 15 of the Report of the Committee on Fair Wages in which it was stated:—

“We are of the opinion that wage fixing machinery should relate a fair wage to a fair load of work and that in case of doubt where the existing workload is not reasonable or not proper, time and motion studies should be instituted on scientific basis.”

Grievances made before me were two-fold, (i) abolition of productivity standard was on principle bad and (ii) no reason was given by the Wage Board for such abolition.

228. In my opinion, the concept of 'labour productivity' cannot by itself indicate the specific contribution made by labour as a factor of production. It can be a measure of general efficiency only and the concept cannot be stretched too far. Then again, there has been as yet no time and motion study on scientific basis and there has been no scientifically fair work-load assessment made on wage structure. If, in such circumstances, the Wage Board steered clear of troubled water, I do not find fault with the Board.

229. The argument on the relationship of wages to national income was somewhat lamely argued. The Committee on Fair Wages noticed:—

“Rapid capital formation and the consequent growth of total national income might be facilitated by an extremely unequal distribution of incomes, but that cannot be a justification for tolerating or perpetuating conditions which offend against the social conscience. On the other hand, an equal distribution of the national income or a merely equal distribution according to the concept of ‘each according to his need’ might arrest capital formation to such an extent as to result in a rapid reduction of the total national income. Both these extremes are harmful.”

It is well known that the present level of India's national income does not permit payment of living wages, on standards prevailing in more advanced countries. Nevertheless, at any level of national income, there should be maintained a level of minimum wage, which the society can afford. Minimum wages fixed at below national income level may have an adverse effect on employment. Apart from this, the state of national income is regarded relevant to the problem of wages, because no economic policy can be regarded as justified or even economically sound unless it encourages increase of national income and secures to the wage earner a legitimate share in that income. So far so good, but the principle should be dragged beyond. In considering the question of wages *vis-a-vis* the national income, one cannot proceed on the basis as if there is a fund for national income which is to be distributed among various sections according to certain fixed ratio. The factor of *per capita* national income has a remote bearing on the question of total emoluments of an industrial worker for such *per capita* income is merely a hypothetical figure arrived at by taking an average. The Wage Board recommended substantial increase in wages and to that extent has been an instrument of social change tending to diminish inequalities. I do not, therefore, think that the recommendations of the Wage Board forgot the national income test altogether.

230. Another line of attack against wages recommended by the Board, I shall now consider. Against the wages recommended by the Board, it was contended that classification of the daily newspapers into seven classes was unreasonable and should not have been made. This argument was developed in the following lines. It was contended, in the first place, that daily newspapers should have been classified into six classes only, as done by the Report of the Working Journalists Wage Committee (Ex. 85), namely.

<i>Class</i>	<i>Gross Revenue</i>
A	Rs. 50 lakhs and above.
B	Rs. 25 lakhs and above and less than Rs. 50 lakhs.
C	Rs. 12½ lakhs and above and less than Rs. 25 lakhs.
D	Rs. 5 lakhs above and less than Rs. 12½ lakhs.
E	Rs. 2½ lakhs and above and less than Rs. 5 lakhs.
F	Less than Rs. 2½ lakhs.

It was contended, in the next place, that the definition of gross revenue, on the basis of which the classification, was made was faulty and gross revenue should have been defined as done by Wage Committee. Now, gross revenue was defined by the Wage Committee in the following language:—

"Gross revenue means in the case of newspaper the total of its circulation revenue (including subscription revenue) and advertisement revenue and in the case of news agency means subscription revenue. In the case of a newspaper the circulation revenue and the advertisement revenue shall be taken by the amount to which the revenue arrived at after taking the commission actually allowed to the extent to which the amount of the commission was allowed as reasonable."

It was argued that the Wage Committee did not consider it equitable that revenue received from other sources, like job work, type foundry, safe deposit vaults, etc., which was extraneous to newspaper business, should be taken into account for the purpose of determining the class of paper. Nevertheless, the Wage Board included revenue from other sources in calculating the Gross revenue.

231. The workmen also appeared to be dissatisfied with the classification of newspapers. It was contended that the classification was not equitable because it worked hard against the employees. The suggestion made was that the Wage Board should have maintained the classification in six categories as done by the Wage Committee but should have added three more classes at the top having gross revenue of over 50 lakhs. Instead of doing that the Board increased the numerical value by extending two ends of the slab so that more employees remained in the lower classes. Classification of establishments as urged on behalf of workmen is hereinbelow indicated:—

<i>Class</i>	<i>Gross revenue</i>
I	Rs. 200 lakhs and above.
II	Rs. 100 lakhs and above and less than 200 lakhs.
III	Rs. 50 lakhs and above and less than 100 lakhs.
IV	Rs. 20 lakhs and above and less than 50 lakhs.
V	Rs. 10 lakhs and above and less than 20 lakhs.
VI	Rs. 5 lakhs and above and less than 10 lakhs.

It may be noted that the workmen contended for classification of establishments and not of newspapers.

232. Now classification of newspapers, as done by the Wage Committee, was made on the basis of average revenue for the three accounting years, 1955, 1956 and 1957 (Ex. 85-page 37). It is noteworthy that the Wage Committee did not desire to make the classifications permanent. The Committee observed (at page 38):—

"(para 6) The classifications determined in accordance with the provisions of para 3.4 and 5 should continue until the newspaper or news-agency is reclassified in accordance with the provisions of paragraph 21."

The provisions of paragraph 21 read as follows:—

"(para 21). It should be open either to the employer or to the employees to seek re-classifications of newspaper or news agency at any time after the accounting year 1960 on the basis of the average revenue of the three immediately preceding account years provided such classification should not be sought more than once in any year of 3 consecutive accounting years."

When the question of classification of newspapers cropped up again before the Wage Board for Working Journalists, that Board made two changes in the classification of newspapers as done by the Wage Committee. The Wage Committee had proceeded, in making the classification, on the basis of the total of circulation revenue and advertisement revenue. The first change introduced by the Wage Board for Working Journalists was that the Board proceeded on gross revenue, defined as the total receipt from all sources. The other change introduced by the Wage Board for Working Journalists was that there was a reclassification

under which instead of 6 classes there were 7 classifications made on the following line of reasoning:—

“A number of persons representing both employers and employees who were examined by the Board have stated that on account of inflation the classification made by the Wage Committee should be revised upwards. Some of them have also stated that the upper limit of 30 lakhs, fixed by the Wage Committee, should also be revised and two or three classes be added at the top. After examining the financial resources of some of the newspaper establishments, the Board decided to place the highest limit at 2 crores and also to add two classes to the classification of the Wage Committee namely 50 lakhs to 1 crore and Rs. 1 crore to 2 crores. According to the Wage Committee the lowest class of paper consisted of those who had a revenue of less than 2½ lakhs. The Board has raised this limit to Rs. 5 lakhs (para 3.8 Ex. 3).

The classification proposed by the Board was follows:—

<i>Class</i>	<i>Gross Revenue</i>
I	Rs. 200 lakhs and above.
II	Rs. 100 lakhs and above and less than Rs. 200 lakhs.
III	Rs. 50 lakhs and above and less than Rs. 100 lakhs.
IV	Rs. 25 lakhs and above and less than Rs. 50 lakhs.
V	Rs. 12½ lakhs and above and less than Rs. 25 lakhs.
VI	Rs. 5 lakhs and above and less than Rs. 12½ lakhs.
VII	Less than Rs. 5 lakhs

The Wage Board for Non-Journalists drew considerable inspirational from the classification as made by the Wage Board for the Working Journalists. The classifications of Classes I, II, III and VII are same for the Working Journalists and non-working journalists, Classes IV, V and VI are, however, slightly different for Non-Journalists as indicated below:—

<i>Class</i>	<i>Gross Revenue</i>
IV	30 lakhs and above and less than 50 lakhs.
V	15 lakhs and above and less than 30 lakhs.
VI	5 lakhs and above and less than 15 lakhs.

The classification both for journalists and Non-journalists was made on the basis of gross revenue for the years 1963, 1964 and 1965, the reason for the variation in classification was stated to be:—

“This change in the case of journalists became necessary as in the classification determined by the Wage Committee, newspapers between 12½ lakhs and 15 lakhs were in higher class. Similarly newspapers between 25 lakhs and 30 lakhs were in higher class. In order to save from injustice the journalists of newspapers falling between Rs. 12½ lakhs to Rs. 15 lakhs and Rs. 25 lakhs to Rs. 30 lakhs, we had to make the above mentioned change.”

Provision for reclassification was also made after the year 1968 in the same language as done by the Wage Board for Working Journalists.

233. It was first contended on behalf of the workmen that the six classifications as done by the Wage Committee for Journalists should have been maintained but the Board should have added three more classes at the top of that having a gross revenue of over 50 lakhs. I do not see why the six classification made by the Wage Committee should always remain six. The Wage Board adopted in part the criticism made by the workmen in that two more classes at the top were added, namely, 50 lakhs to Rs. 1 crore and Rs. 1 crore to 2 crores. Now, all classifications are somewhat artificial and cannot be worked out with mathematical accuracy. All that need be seen in classification is whether the same has been made on a reasonable basis. What is reasonable must always be a question of fact in each case. Whatever the classification might have been, there is no doubt that the Statesman Limited and the Bennett Coleman Limited, which are in the first class, would have remained in the first class. They are incomparable. Hindustan Times, which comes next in financial solvency, has been placed in the

second place. Ananda Bazar Patrika Private Limited, Indian Express Newspaper (Bombay) Limited and Indian National Press, Bombay, Private Limited do not compare either with the first or the second class papers and have been placed in the third class. Newspapers classified in the 4th, 5th, 6th and 7th classes have not approached this Tribunal for relief and do not quarrel with their classification. Thus, so far as newspaper establishments which are agitating against the classification are concerned, they appear to have been properly classified.

234. In my opinion, time has arrived to change the classifications as recommended by the Wage Committee. Necessary changes have been effected on the average gross revenue for the years 1963, 1964 and 1965. Six classes have been increased into seven, on the strength of financial position of papers and on the basis of demand for classification as made.

235. The learned Counsel for the management next argued that the gross revenue on the basis of which classification was made was itself faulty. If there was error in the calculation of gross revenue, there must be error in classification as well, as they contended. The foundation of such argument was that in the Report of the Working Journalists Wage Committee, gross revenue merely included circulation revenue and advertisement revenue but not any other revenue. By including other sources of revenue, in the calculation of gross revenue, it was contended, the Wage Board erred. I have already hereinbefore quoted the definition of gross revenue, which is the same in the Report of the Wage Board for Working Journalists and in the Report of the Central Wage Board for Non-journalists Employees. The definition no doubt includes the entire revenue earned by a newspaper establishment from one centre subject to the proviso "that in a newspaper establishment in regard to the activity of other departments which have nothing to do with the income and expenditure of the newspaper, including the depreciation on the machinery employed by the newspaper establishment, the net income of the newspaper". Why this change in the definition was effected was explained in the Report of the Wage Board for Working Journalists in the following language:—

"In course of evidence it has come to the notice of the Board that the amount of revenue from sources like job work, type foundry, etc., is considerable in some newspaper establishments. Besides revenue earned from the source like job work, type foundry, etc. is the result of the investment made by the newspaper establishment. As such there is no reason why such income should not be taken into consideration for the purpose determining the class of newspaper. Consequently the Board has defined the gross revenue as the entire revenue earned by the establishment from one centre."

236. Moreover, it will appear, from what is stated later on, that the job department and the process department of the Statesman Limited and of the Bennett Coleman Limited are parts of the newspaper establishments because they cater to various needs of the newspaper departments and they also publish certain newspapers themselves. It is no doubt true that they do certain outside work but merely for that reason the entire revenue from the other departments cannot be excluded. In the note of dissent by Mr. K. M. Mathew and Mr. Narendra Nath Tiwari, which was adopted in course of argument, it was observed:

"3. In regard to the definition of them 'gross revenue', we feel that Wage Board recommendations should be free from any ambiguity and capable of easy implementation so that there is no occasion for disputes later. The proviso to clause 4. 1(a) of the definition evidently makes it clear that other incomes which have nothing to do with the activities of the newspaper establishments have to be excluded.****

4. The proviso will give rise to various difficulties in its implementation where no separate accounts are maintained in respect of the departments whose income is to be excluded. Disputes will arise in connection with all allocation of income in connection with those departments as generally only one account is maintained by newspaper establishment in connection with all the departments. The definition instead of bringing peace in the industry will give one more cause for dissatisfaction and dispute in the industry.***We feel that there is no reason to depart from the definition of gross revenue given by the Working Journalists Wage Committee***as under:

'Gross Revenue' means in the case of a newspaper, the total of its circulation revenue (including subscription revenue) and 'advertisement revenue'.

The dissenting note contains a threefold criticism against the definition of gross revenue, namely (i) it is not above ambiguity, (ii) it will give rise to various difficulties in implementation when no separate accounts are maintained by newspaper establishments and (iii) it will cause dissatisfaction. The criticisms do not appear to be of substance. I do not find that the definition is so ambiguous as to be un-understandable. In order to work out the "gross revenue", some arithmetical calculation will be necessary and particularly so in cases of group newspapers but that does not make the definition ambiguous. Absence of separate account books for other sources of revenue, particularly for job and process works may be easily overcome by maintaining such accounts. Further, it was sought to be asserted by some of the newspaper establishments, that they had such account books e.g. the Statesman Limited. Lastly, the criticism of dissatisfaction is difficult to appreciate. The workmen of newspaper establishments appeared to be happy over the inclusion of other sources of revenue within "gross revenue". There are no comparable concerns with which I need bother.

237. The exclusion of revenue from other sources no doubt brings down the gross revenue and may be much to the liking of the management. But there are good reasons why there must not be such exclusion. The Job and Process departments of the Statesman Limited and Bennett Coleman Limited cater to the various needs of the newspaper departments of the two companies and also publish other periodicals of the company. The works done by the job and the process departments of the Statesman Limited has already been described in paragraphs 49 to 54 thereof and I need not repeat. So far as Bennett Coleman and Company Limited it appears from the evidence of K. C. Raman and V. G. Karnik, examined by the management and G. J. Pinto and B. P. Bhatia, examined by the workmen, that the Job department caters to various requirements of the newspaper department and also print journals like "Indrajal Comic" and "Science to-day" and the Process Department makes blocks for all the dailies and other periodicals of Bennett Coleman and Company Limited. The departments are ancillary to the newspaper department, if not parts thereof. There is no reason to exclude the revenue of these departments from the gross revenue. I therefore do not accept the criticism that the gross revenue was wrongly calculated.

238. In the case of Express Newspaper (1961) 1 LLJ 399, the Supreme Court upheld classification on the basis of gross revenue. At p. 407, their Lordships observed:

"We are not prepared to say that the Wage Board was not justified in adopting this made a classification on the basis of gross revenue".

I do not therefore find any fundamental objection in proceeding on the basis of gross revenue.

239. The revenue is the revenue of the newspaper establishments, that is to say of several limited Companies. There is no reason why in calculating such revenue, the income from departments like job and process departments, having the closest nexus with the newspaper departments, should be excluded. Such revenue as deserve to be excluded have been properly indicated in the definition.

240. I have now to consider some of the criticisms against wage scales recommended. It was argued, in the first place, that the grouping and clubbing of workmen for the purpose of fixation of wage scales was not properly done. This was argued in the context that although there may be financial capacity, such capacity must not be necessarily dissipated in paying too high a salary to an undeserving employee. It was argued in the next place that the scales of pay were irrational for the reasons, (a) scales were too high, (b) the increments were too quick, (c) the absence of efficiency bar made increments automatic and without any test of efficiency and (d) the peak level in the scale was reached at too early an age, thereafter leaving little incentive to the workmen to work. This was argued in the context that the financial burden was made unnecessarily burdensome.

241. The first branch of the criticism, namely, impropriety of grouping clubbing, as made by the Wage Board, was a criticism, common to both employers and employees. None appeared to be satisfied with the groupings as made. It was

generally contended on behalf of the employers that the groupings were made on ad hoc basis, there was no job evaluation and as such the groupings or clubbings were unscientific and would result in considerable hardship to the employers and considerable heart burning amongst the employees. It was further contended that the wage scales provided for each group based on wrong categorisation would place some of the members of one category in a more favourable position as compared to persons doing similar work outside the newspaper industry and they would thus be getting preferential treatment. It was also contended that no reason was given for wage differentials between different groups in which non-industrial employees were divided. It was lastly contended that there were glaring errors in the categorisation itself, for example, a driver for classes I, II, III and IV newspapers was placed in group III, while a driver for V, VI and VII newspaper was placed in group III.

242. The employees in turn contended that categorisations were too many and even then many of the categories were left out. It was further contended that the categorisations were made without relevant information and there should be an Expert Committee constituted to go into all occupational categories in the industry and properly to categorise them.

243. On what basis the Wage Board made the groupings of non-journalists, both for administrative staff and factory staff, does not appear from the Report. The groupings as made by the Wage Board underwent drastic change in the hands of the Central Government in two respects. In the first place, there was regrouping in the administrative staff. In daily newspapers in class I, II and III, so far as groups V and VI were concerned. Similarly in daily newspapers in class IV, V, VI and VII, the workmen in groups IV and V were re-categorised by the Government. Also amongst factory staff, hand-compositors and drivers were placed in group III irrespective of class of newspaper/weekly/periodicals in which they were employed. Although the Government introduced the above changes, there is no indication why such changes were made in the groupings made by the Wage Board.

244. Grouped categorisation, as was prevailing prior to the recommendations of the Wage Board was based more on historical considerations than on any scientific basis. They were not based on (i) the degree of skill, (ii) the strain of work, (iii) the experience involved, (iv) the training required, (v) the responsibility undertaken, (vi) the mental and physical requirements, (vii) the disagreeableness of the task, (viii) the hazard attended on the work and (ix) the fatigue involved. When the Wage Board made the categorisation and the Government changed the same, neither was based on any of above considerations. To put stenographers, translators, operators of accounting machines in group V or to place time-keepers, typists, telephone operators and receptionists in group VI, from amongst the administrative staff, as done by the Government, or to put electricians, hand-compositors and drivers from among factory staff in the same group as done by the Wage Board, is a performance for which a rational basis may be difficult to find. The Committee on Fair Wages in making their report made a very bold confession:

"We are unable to advise the wage fixing machinery as to what weight should be attached to each factor; that is a matter which will gradually have to be evolved on the basis of experience. We also recommend that wage boards should try to evolve standard occupational nomenclature so that the work of classification and assessment can be undertaken on uniform basis throughout the country."

The present categorisation has been made without evolution of any standard occupational nomenclature and without necessary experience, which might have made scientific categorisation in newspaper industry possible.

245. It was suggested that I should draw inspiration from awards such as given by Mr. K. C. Sen in Reference No. 2 I.T. of 1952 (Messrs Bennett Coleman and Company Limited and their workmen) published in the Bombay Gazette on July 2, 1953 or from the Desai award, dated July 13, 1963, between Bennett Coleman and Company Limited and their workmen (Ex. 47) or from Vyas award between the Hindustan Times Limited and their workmen (Ex. 83), dated March 16, 1959, and adopt the groupings as in those awards and also re-introduce the categories as in those awards. Indian Express Newspaper (Bombay) Limited contended for categorisation on the basis of Salim Merchant award (Ex. 60) and Thakor's award (Ex. 73). I do not find how the different awards are of assistance in the matter of grouping or clubbing. Sen award contains provisions for grades and scales

of pay but does not go into the question of grouping of different categories of workmen, in such manner as will cover all categories employed in a big newspaper industry. Desai award (Ex. 47) is based on compromise. It contains no reasons. Different pay scales for different categories of workmen were prescribed, not one scale of pay for a group of workmen. Vyas award (Ex. 83) made some classifications. Vyas award was taken up in appeal before the Supreme Court. The Supreme Court affirmed the groupings made in the said award [vide (1963) 1 LLJ 108] in the following language:

"By the award the tribunal has introduced new wage scales for certain existing categories of workmen and in some cases has introduced new scales, after amalgamating more than one category. Thus, certain railway despatchers, advertisers, box number sorters, filing clerks, etc. who had formerly in the scale 50-4-90-EB-4-115 and junior clerks etc. who had a scale of Rs. 60-4-100-4-115, have all been put on a new scale of Rs. 70-5-100-EB-5-150. There has been similar amalgamation of clerks, assistance, cashiers, record keepers and others some of whom were on Rs. 80-175 and some on Rs. 80-200 all of them being put on a new scale of Rs. 90-200. *** The employer's contention before us is that there was no case for revision whatsoever and the tribunal acted wrongly in making any change in the old scale. The workmen's contention on the contrary is that the change do not go far enough."

Then their Lordships went to examine the proposition of fixation of wage structure and observed:

"On an examination of the tribunal's award as regards the wage scale, we are satisfied that all the conditions mentioned above were present in the mind of the adjudicator and we are of opinion that there is nothing that would justify us in modifying the award either in favour of the employer or in favour of the workmen."

Their Lordships had no occasion to go into the principles of categorisation. Salim Merchant's award (Ex. 60) was between Bombay Chronicle and Company Limited and other newspaper establishments (including Express Newspapers Limited) -vs- Workmen. There the categorisations were also agreed occupational categorisation. In Thakore's award (Express Newspapers Limited -vs- Workmen) Ex. 73, there is no discussion on categorisation. In the instant case, however, grouping or categorisation is being disputed. The principle on which groupings should be made does not also appear from any of the awards to which my attention was drawn.

246. Although much criticism was advanced against the grouping in a general line, neither the management nor the workmen suggested any concrete shape that the grouping should take. The arguments proceeded on the hypothesis that the groupings were bad on principle, would lead to industrial unrest and would create heart burning.

247. Those who wanted to argue that the grouping were bad had several theories to propound. One such theory was that the grouping of workmen was not based on skill. There was a demand for three or four types of clubbing on the basis of skill, namely, highly skilled, skilled and unskilled, some wanting to add a cadre of semi-skilled workmen between skilled workmen and unskilled workmen. As a theory this sounds attractive. In practice, however, the test was sought to be disastrously applied on single opinion basis. As an illustration I quote hereinbelow two passages from the evidence adduced before this Tribunal. S. A. Moore, who was examined on behalf of the Statesman Limited, stated:

"There is a Deputy Superintendent in my department, who is a highly skilled man. There are two Printers in my department but they are not so highly skilled. I rank them as skilled workmen. There are Assistant Printers. They have the same qualification as the Printers have. There is a Chief Advertisement Officer. He is as skilled as the Printers are. There is a Chief Lino-mechanic who is highly skilled. There are two Lino-mechanics both of them are highly skilled. I rank Lino-operators in my department as skilled operators and not as highly skilled operators. The Composing Supervisor, working my department, may be ranked as below the Assistant Printers in skill."

Moore is certainly a printer of repute. But to concede to him the virtues of a job valuer, on his personal opinion basis, may be much too unsafe a course to

adopt. In course of cross-examination, he gave some curious grounds as to why he wanted to classify some workmen as highly skilled workmen. He said:

"A man is called highly skilled firstly because he draws higher wages and secondly because he does work of responsibility."

No comment is necessary on this sort of attempt at grouping. It stands self-condemned. Turning now to the evidence of A. N. Ghosal, the Composing Superintendent in the Hindustan Times Limited, I find equally strange test for grouping advocated. He said:

"A senior lino-operator under the heading 'Lino-Operator' can compose 1200 lines to 1400 lines per shift and is the more experienced and more infallible operator. Whereas a Lino operator can compose upto 1000 per shift and is not as experienced and as infallible as the Senior Lino operator. Mechanics and Assistant Mechanics in this department may be differentiated on the ground that the mechanic is a more experienced man in operating lino machinery, but an assistant mechanic is not so competent and his duty is only to assist the mechanic."

He is also opinionative and I do not know why I should be guided by his opinion, which is not of a revealing type.

248. The criticism that the groupings as made will create heart burning has only sentimental importance. There are jealous people, who become unhappy if others succeed in life. It will, however, be beyond the capacity of any Industrial Tribunal to rid this world of jealous people.

249. The Wage Board may not have put in a perfect performance in the matter of grouping. The improvements sought to be introduced thereto by the Government may not have removed all defects therefrom. On the evidence led, this Tribunal can do no better. I therefore leave the groupings where they are, instead of trying to meddle with the same without guidance of positive evidence on the point.

250. Then again, I have no evidence before me that on a proper regrouping of workmen, either on the administrative or on the factory side, most of the employees would be downgraded, who got undeserved emplacement in higher groups under the recommendations of the Wage Board. I have also no evidence before me that a regrouping would cause substantial reduction in financial burden on newspaper establishments. I am, therefore, reluctant to change the grouping as they now stand.

251. There are, however, two faults which I find in the groupings. In the first place, several categories of workmen have not been grouped at all. In the next place, certain categories of workmen have been included in the grouping, who may not be even workmen. For example, General Manager, Manager and Secretary (placed in group I), Departmental Managers and Chief Accountant (placed in group II), Liaison Officer, Advertisement Manager, Assistant Circulation Manager and Personal Officers (placed in group III), all belonging to the administrative staff. In case of class I newspapers, for group I officers there is no scale of pay prescribed. They may begin from above Rs. 500 and end with an astronomical amount of pay. Group II officers begin from Rs. 500/- and go upto Rs. 1225/- and group III officers begin from Rs. 400/- and go upto Rs. 930/-. The definition of workmen, under section 2(s) of the Industrial Disputes Act, excludes from its ambit workmen, who are employed mainly in managerial or administrative capacity or those being employed in supervisory capacity draw wages exceeding Rs. 500/- per month or exercise either by the nature of the duties attached to the office or by reason of the powers vested in them functions mainly of a managerial nature. According to the above test, many of the officers in groups I, II and III may fall outside the definition of workmen. To this contention, Mr. Ram Murthi, appearing for the workmen of Hindustan Times Limited, proposed an answer. He drew my attention to the following passage from the judgement of the Supreme Court in *All India Reserve Bank Employees v. Reserve Bank of India* (1965 II LLJ 175 at 187) in which Hidayatullah, J (as his Lordship then was) observed:

"Supervisory staff drawing less than Rs. 500 per month cannot be debarred from claiming that they should draw more than Rs. 500 presently or at some future stage in their service. They can only be debarred of the benefits if they are non workmen at the time they seek protection of Industrial Disputes Act."

He submitted that group II and III workmen, mostly composed of managerial staff or persons invested with powers mainly of managerial or administrative nature, begin at a scale of less than Rs. 500/-. They should not be deprived of their rights to get relief from the National Tribunal as regards their wage scales. I have to go by the directions given by the Supreme Court. Therefore, such of the workmen invested with managerial and administrative powers in group II and III, who were drawing more than Rs. 500 per month at the time when they sought protection of the Industrial Dispute's Act would not be entitled to the wage scales recommended by the Wage Board. Others will be.

252. I shall consider the question of non-inclusion of certain categories of non-journalists employees while answering item No. 2 of the Schedule in NIT-1 of 1968 and item No. 3 of the Schedule in NIT-1 of 1969.

253. I next take up of for consideration the criticism that the wage scales were improperly fixed. In paragraph 3.12 and 3.13 of the Recommendations, the Wage Board observed:

"3.12. *** except in the case of bare subsistence wage it is incumbent on wage fixing authorities to take into consideration the capacity of the industry to pay. Group VI of the factory staff belonging to class VII consist of Mazdoor, Reel Loader, Unloader, Trolley man and Baller, etc. Their wage scale which is the lowest in the factory staff starts from Rs. 80 i.e., Rs. 50 as basic wage and Rs. 30 as dearness allowance in Area No. III. Same is the case with group VII in the class VII in the Administrative staff. The minimum wage fixed for the peons of the printing industry in Zone IV in Gujarat on 31st December, 1965 is Rs. 75/- and in Zone III Rs. 80. Zone III comprises towns like Bulsar, Navsari, Broach, Anand, Nadiad, Godra, Dohad, Viramgaon, Mehsana, Patna, Amreli, etc., and Zone IV comprises areas excluding Ahmedabad, Baroda, Rajkot, Bhavnagar, Surat, Jamnagar and the town forming part of Zone III already enumerated. The proposed scale for group VI class VII of the Factory staff and Group VII class VII of the Administrative Staff starts at Rs. 80 (Rs. 50 basic plus Rs. 30 dearness allowance) and goes upto Rs. 90 per month, that is Rs. 60 basic and Rs. 30 dearness allowance. In Madhya Pradesh minimum wage for unskilled workers in 1965 was Rs. 30 in Zone 'C' and Rs. 35 in Zone 'B'. In Delhi minimum wage fixed for peons is Rs. 63.25. In West Bengal the minimum wage paid to the peons in Zone 'C' was Rs. 60 per month in 1965. In Bombay area minimum wage fixed for peons in 1965 was Rs. 60 in Zone IV and 65 in Zone III.

3.13. The comparative figures mentioned in the previous para already bring out the fact that the proposed wage scale for the peons of class VII is higher than bare subsistence wage. As the scales of other classes and groups are higher than those proposed for the peons in class VII it is essential that the scales recommended by the Board must stand in test that the industry has the capacity to pay."

Further proceeding the Wage Board observed, in para 3.14, as follows:

"3.14. The principles expounded in Chapter II apply as a general rule to industrial employees, Non-Journalists as already pointed out fall under two categories namely administrative staff and factory staff. Barring a small percentage of employees falling under administrative staff or factory staff the remaining employees belong to middle class. Consequently the Board concurs with the views expressed by the Wage Committee that in fixing wages for Working Journalists the two main factors to be taken into consideration are prevailing rates of wages in the same or similar occupation in the same or neighbouring localities and the capacity of the industry to pay. The wage scale of the factory staff can be compared with the wage scale of Government Printing Presses."

In the note of dissent prepared by Mr. K. M. Mathew and Mr. Narendra Tiwari, representatives of the management, it was observed:

"13. The wage scales which are provided for each group would place some of the members in one category in a favourable position as compared to persons doing similar work outside the newspaper industry and they would thus be getting preferential treatment. The 'drivers' do

the same work whether they are in the engineering industry or rubber industry or newspaper industry. If wages in one industry are out of line with wages in other industries, the same can create dislocation or industry in general. The wages of employees should be provided on industry-cum-region basis. **** When one particular industry is divided into classes in accordance with the revenue earned, the system may work well in connection with such employees as are peculiar to the industry. Where employees belong to a category which is common to the newspaper industry and other industries, the categorisation which does not take into account the regional basis will result in the inequality in payment among members of the same class in the same region who are equally qualified and evoke a sense of injustice in others who may be less paid in the same region. This will give rise to dissatisfaction and consequential industrial unrest.

* * * * *

15. In fixing the wage scales, the majority of the Wage Board has given reasons for the starting pay of the lowest category of employers. But no reasons are given in connection with the maximum in the pay scales fixed by them and for providing a comparatively short span before the maximum in the pay scales is reached. No reason is given for the wage differentials between the different groups in which the non-Journalist employees have been divided." The result of the "colossal rise" they described in the following language:

"Such colossal rise cannot under any circumstances be justified and we very much regret it is not possible for us to join the majority of the Board in making such fantastic recommendations. While Government in making every effort to bring down the prices, and to build the national economy, the effect of implementation of the proposals of the majority of the Wage Board would give momentum to rising spiral in prices and would be great detriment both to the industry and Government."

The workmen no doubt asked for more wages, as they must, but their criticisms against the wage scales fixed by the Wage Board lack in vigour. This was so because the rise in the wage scales as recommended by the Wage Board was considerably to the interest of the workmen and it would not have served their purpose to condemn the wage scales except by asking for more. Whether the workmen would be entitled to anything more than what the Wage Board had recommended, I shall consider later on.

254. It was contended particularly by the management of Bennett Coleman & Co. Limited and the Hindustan Times Limited that the aforesaid two newspaper establishment were paying fair wages to their workmen and that should not be interfered with. Mr. B. Sen, learned Counsel appearing on behalf of the management of Hindustan Times Limited, invited my attention to the judgment of the Supreme Court in *Hindustan Times Limited vs. Their workmen* (1963) 1 L.I.J. 108, affirming the Vyas award, and read out the following passage therefrom:

"On a consideration of all these facts we have reached the conclusion that it will not be proper for us to modify the wage scale fixed by the Tribunal in favour of the workmen also."

255. He submitted that the said wage scales were confirmed by the Supreme Court only in 1963 and since thereafter time has not so far changed as to justify a very great rise in wages. 255. It was contended by Mr. Phadke, learned Counsel for Bennett Coleman & Company Ltd. that the scale of wages was fixed for the workmen, by agreement, on July 1963 (Ex. 47) and if that agreement required some modification in the year 1968 or 1969 it must not be deemed to require any colossal modification particularly because the wages in 1963 had been fixed by agreement.

256. I am not satisfied by this line of argument. The Supreme Court affirmed the wage scales fixed by the Vyas award, not because the Supreme Court itself found that the same was fair and reasonable but because the Supreme Court was satisfied the Tribunal had proceeded cautiously, bearing in mind the correct principles of wage fixation. If, several years thereafter, the workman ask for a revision of scales, that cannot be denied merely because the wage scales awarded by the Vyas Tribunal had at one stage in the past, been affirmed by the Supreme Court. So far as the Bennett Coleman and Company Ltd. is concerned, I do not find any principle by which the wages were fixed by the Desai award. The said

award, as I have stated, is based on mutual agreement. A mutual agreement presupposes a give and take basis of mind. The workmen might have made some sacrifice at that time in order to get some immediate benefit. I cannot hold that award of such sanctity as to debar any attempt at relaxation of wage scales six years thereafter.

257. Even then, I am left with the question whether the scales recommended are on the high side. I have hereinbefore quoted the reasons given by the Wage Board for fixation of the minimum in the scale. The maximum in the scale, it appears, is almost double and even $2\frac{1}{2}$ times of the starting point, excepting in case of the lowest paid workmen in Group VII and VIII. Not only that, the maximum is reachable automatically and within a period of 15 years at the most. In order to examine the proposition, I set out hereinbelow a few illustrations :

Administrative Staff

<i>Class I</i>							
Daily Newspaper	.	Group II	500—30—650—40—850—75—1225	(15 years)			
		Group VIII	100—5—160	(10 years)			
<i>Class II</i>							
Daily Newspapers	.	Group II	350—14—420—34—590—55—865	(15 Years)			
		Group VIII	100—5—150	(10 years)			
<i>Class III</i>							
Daily Newspaper	.	Group II	300—14—370—26—500—50—750	(15 years)			
		Group VIII	90—5—140	(10 years)			
<i>Class VI</i>							
Daily Newspaper	.	Group II	200—10—250—20—350—25—400	(12 years)			
		Group VII	50—1—70	(10 years)			
<i>Class VII</i>							
Daily Newspaper	.	Group II	175—3—220—12—280—25—330	(12 year)			
		Group VII	50—1—50	(10 years)			

Factory Staff

<i>Class I</i>							
Daily Newspaper	.	Group II	210—10—260—20—360—30—420	(12 years)			
		Group VI	110—5—160	(10 years)			
<i>Class II</i>							
Daily Newspaper	.	Group II	200—10—250—18—340—30—400	(12 years)			
		Group VI	100—5—150	(10 years)			
<i>Class VI</i>							
Daily Newspaper	.	Group II	110—5—135—11—190—15—220	(12 years)			
		Group VI	60—1—70	(10 years)			
<i>Class VII</i>							
Daily Newspaper	.	Group II	100—5—125—10—175—12½—200	(12 years)			
		Group VI	50—1—60	(10 years)			

The initial or starting salary as prescribed may correspond to what amounts to fair wages. But the question is must the difference between the starting salary and the maximum salary be so great as illustrated above! Then again, must the peak salary be reached between 10 to 15 years and must the arrival at the maximum be an automatic process, without show of increased efficiency!

258. A time scale of wage with periodical increments is now recognised to be the normal pattern. There is a justification behind this pattern. The growing needs of workmen's family, the greater experience that comes with length of service and the desirability of a provision for saving wage, after a fairly long period of service, are good reasons for having a time scale with increments. Besides, there is a valuable psychological effect on the minds of employees, when they are assured that for normal increment they have no longer to depend on the whims of superior officers, which perhaps would have been the case if there were no regular scales.

259. At the same time, it is well-settled that in constructing an incremental wage scale, industrial adjudication has to take long range view and has to examine very carefully the impact of the wage structure on the financial position of the

industry concerned. I have already shown hereinbefore that wage scale fixed by the Wage Board in many instances, reached two times or two and a half times level at the maximum. This is worse because this was done on *ad hoc* basis. If the Wage Board had good grounds to anticipate that the income of the industry would reach correspondingly high level, say in 15 or 17 years (the time required for reaching the maximum) there might not have been difficulty in upholding the wage scale fixed by the Wage Board. The Wage Board did not do that. Therefore, the scales recommended suffer from the infirmity that very large increments in scale were granted without consideration of the repercussion thereof on the capacity of the industry at the end. Then again, the Wage Board made the following apologetic confession:

"3.30. The Board has tried to reduce the financial burden by revising the tentative proposals as the burden was too heavy for most of the units of the industry to bear. Reference can be made in this behalf to Annexure No. III. It may also be mentioned here that it is not possible to reduce the wage scale any further. The wage scale fixed for group VI class VII Non-Journalist employees belonging to factories and daily newspapers is Rs. 50 basic pay and Rs. 30 dearness allowance. The total remuneration being Rs. 80 per month. As the relation between an industrial employee and a middle class employee is in the ratio of 1.1.8 the remuneration of a Proof Reader amounts to Rs. 144 per month. The Board has fixed a total remuneration of Rs. 145 per month. It may also be mentioned that the pay scale of a Proof Reader in a Government Printing Press in Gujarat is Rs. 142.33, in Madhya Pradesh Rs. 162 and in Rajasthan Rs. 124.55. The remuneration of Rs. 80 per month fixed for lowest class non-Journalist employee cannot be reduced below Rs. 80 per month in the present economic conditions. The starting pay of Rs. 145 per month fixed for a Proof Reader, therefore, cannot be said to be unreasonable. The pay scales of higher groups and classes in respect of Journalists are fixed in relation to the remuneration fixed for a Proof Reader. We have kept the same differentials for Journalists which were allowed by the Wage Committee in the formation of its wage scales. There is, therefore, no room to reduce the wage scale still further."

In my opinion, the Wage Board took into consideration some justification at the start but not towards the end.

260. On way of remedying this defect may be to reduce the scale of wages at the top level. Another way may be much more to space out the increments, so that the higher levels may not be reached in the very near future. A drastic reduction of the wage scale may not be possible, because the workmen have already been assured of 75 per cent of the benefits of the Wage Board's recommendations irrespective of the result of the award of this Tribunal.

261. It was contended that it was within my power to reduce the scales at least by 25 per cent. I am not inclined to do so. There is no justification for doing so on *ad hoc* basis. I do not know what will be the financial position of the newspaper industry at the end of 12, 15 or 17 years, when the maximum in different scales will be reached. It may be that the industry will be able to bear the burden of a good part of the increments at that stage. The best thing I can do in the circumstances is to further space out the scales of increments so that the rise in the burden may be a matter of slow increase.

262. Before I indicate what the freshly spaced out scales ought to be, I need consider a further aspect of the matter. It was contended on behalf of the management that the Wage Board did not impose any efficiency bar in the time scale increment. Now, imposition of one or more efficiency bar in a running time scale of wage has been favourably considered necessary since the date of Islington Commission and has been adopted by the Government and also by many quasi-Governmental and industrial establishments. The principle of efficiency bar has been satisfactorily applied in many cases by industrial tribunals. The following conditions, on the imposition of efficiency bar, have however been considered appropriate in the past:

- (a) efficiency bar shall be at the end of the 20th year stage in each scale.
- (b) efficiency bar shall be applied very sparingly. The general test should be whether the employee's work has fallen below the standard of efficiency normally expected of him at that particular stage of his career, when the efficiency at the start has been reinforced by the experience from which he should have profited.

- (c) the circumstances necessitating the proposed imposition of the bar shall be indicated to the employee and the employee shall be given an opportunity to submit his explanation which shall be duly considered.
- (d) an efficiency bar once imposed on an employee shall be reviewed every year and before it is continued the employee shall be given an opportunity to make such representation as he desires. Reasons for continuation of the bar shall be recorded
- (e) if an employee held up at the efficiency bar improves, he may be allowed to cross the bar and at the discretion of the management may even be placed at such stage in the running time scale as he would have attained if he had not been held up. In such a case the workman shall not be entitled to claim any arrear on the basis as if there had been no bar.

263. In the Report of the Commission of Enquiry on Emoluments and Conditions of Service of the Central Government Employees it was stated:

"However careful may be the system of initial selection for recruitment, there is no warrant for presuming that an employee would in every case maintain his efficiency, and develop with experience; and an arrangement under which the poor or the indifferent worker can go on earning increments for 20 or 25 years, just as the good worker does, is hardly conducive to good morals or to special effort."

It was contended on behalf of the workmen that imposition of the efficiency bar often leads to malpractices and a workman may not be allowed to cross the bar for other than just causes. This difficulty, however, may be minimised by imposing the conditions as hereinbefore stated. I therefore think that there should be an efficiency bar imposed for administrative staff in groups II to VI and for factory staff in groups I to V, before they reach the last incremental scale. I have left out, from the operation of efficiency bar, two of the lowest groups in the administrative staff and the lowest group in the factory staff, because they work mostly on one or two incremental scale or scales.

264. Reverting back to the question of further spacing out the scales of pay, I need bear in my mind that it is necessary to prescribe the spacings only in respect of Classes I, II and III newspaper establishments. These are the only classes of newspaper establishments which are before this Tribunal. It is true all these establishments publish more than one newspaper e.g. The Statesman Ltd. publish, "The Statesman" from Calcutta and Delhi and from Calcutta only publish two more papers, namely, "The Statesman Weekly" and the Junior Statesman. Similarly, Bennett Coleman & Co. Ltd. publish twenty papers from Bombay and three papers from Delhi, either in English, Hindi, Marathi, Gujarati or Tamil, which are either daily or weekly or fortnightly or monthly papers. One is an Annual. If the newspapers publish by these establishments be considered on the basis of their individual gross revenue, some of them may fall below classes I to III. It is, however, not necessary to do so, because by themselves, each of them do not form a newspaper establishment. The newspapers which are before this Tribunal are not newspapers establishments, say for example, the Statesman or of the Times of India but the establishments are like The Statesman Ltd. or the Bennett Coleman & Co. Ltd. The old mis-description in describing employer establishments was corrected, by amending orders, by the referring body. The Wage Board no doubt made the following recommendations:

4.11. Groups, Multiple Units and Chains—In the case of a multiple unit, all constituent units should be placed in the highest of the classes in which they are taken separately, would fall, under the foregoing provisions, provided that no such unit should as a result of the provisions of this paragraph be placed more than two classes above the class in which it would fall on the basis of its own revenues in accordance with the provisions of paragraph 9.

4.12. In the case of a group, English daily newspapers including the 7th day edition by whatever name it is called published from one centre by a newspaper establishment will form one unit and all Indian language daily newspapers published from one centre including the 7th day edition by whatever name it is called will also form one unit:

Provided that common staff of non-Journalist employees for the purpose of scales of pay and allowances shall be placed in highest class of the unit.

4.13. In the case of a newspaper establishment having more than one unit at one centre of publication as defined in paragraph 12 the weaker unit at that centre will be given a weightage of two classes, if the stronger unit falls in class I, II or III and one class if the stronger unit falls in class IV, V or VI.

Provided that where the weaker unit is only one class below the other unit of that centre then it will be placed in the class of the other unit."

The Statesman Ltd. publish one multiple unit, namely, The Statesman from Calcutta and Delhi. The Indian Express Newspapers (Bombay) Ltd. publish two multiple units, namely Indian Express from Bombay, Ahmedabad and the Screen from Bombay and Madras. Bennett Coleman & Co. Ltd. publish two multiple units, namely, Times of India from Bombay and Delhi and Navbharat Times from Bombay and Delhi. All the newspaper establishments referred to this Tribunal publish a group of newspapers or journals. Some of them form a "Chain", within the meaning of the definition as in paragraph 4.1 of the recommendations.

265. Now, the newspaper establishments being certain Limited Companies, I am concerned with the revenue of the companies only for classification. All are employees under the limited Companies and not under particular newspapers. There is little justification why all should not equally share in opulence of the employer company. Even if I am to be guided by the refinements in the recommendations of the Wage Board, as quoted above, there is no evidence before me that after being placed in the higher classes or after being granted the necessary weightage as recommended, any of the minor publications of a newspaper establishment will fall under class III on the basis of their own separate revenue strength.

266. I need make one position clear. I propose to space out the scales, not because I am of the opinion that the Wage scales are beyond the capacity of the newspaper establishment to bear but because, within the capacity, they are much too burdensome. To be weighted too much has its risks and may retard progress. I therefore space out the scales in the manner indicated below in order to make them less burdensome. So spaced out, the maximum is a little less than what was prescribed by the Board, because arithmetically I could not work them out to a nearer figure.

THE SCALES AWARDED

Administrative Staff

1st Class :

Group II	.	.	500—20—640—30—850—EB—70—1200	(19 years)
III	.	.	400—15—490—30—700—EB—45—925	(18 years)
IV	.	.	275—12—335—20—455—EB—30—665	(18 years)
V	.	.	250—10—320—20—420—EB—40—660	(18 years)
VI	.	.	190—8—230—12—314—EB—20—374	(15 years)
VII	.	.	125—3—140—5—175	(12 years)
VIII	.	.	110—5—160	(10 years)

2nd Class :

Group II	.	.	350—10—420—25—595—EB—50—845	(19 years)
III	.	.	300—10—370—20—490—EB—45—715	(18 years)
IV	.	.	240—10—300—20—420—EB—30—600	(18 years)
V	.	.	225—7—267—15—372—EB—40—572	(18 years)
VI	.	.	175—10—225—11—280—EB—13—345	(15 years)
VII	.	.	115—3—130—5—165	(12 years)
VIII	.	.	100—5—150	(10 years)

3rd Class :

Group II	.	.	300—10—370—20—490—EB—45—715	(18 years)
III	.	.	275—12—335—20—455—EB—30—665	(18 years)
IV	.	.	225—7—267—15—372—EB—35—547	(18 years)
V	.	.	200—8—248—15—338—EB—25—488	(18 years)
VI	.	.	160—6—202—12—274—EB—20—314	(15 years)
VII	.	.	105—3—120—5—155	(12 years)
VIII	.	.	90—5—140	(10 years)

*Factory Staff**1st Class :*

Group I	250—10—310—20—430—EB—40—67c	(18 years)
" II	210—8—258—15—348—EB—20—408	(15 years)
" III	190—8—238—15—328—EB—20—388	(15 years)
" IV	175—7—217—12—301—EB—20—341	(15 years)
" V	150—5—185—12—257—20—297	(15 year)
" VI	110—5—160	(10 years)

2nd Class :

Group I	225—7—267—15—372—EB—40—572	(18 years)
" II	200—8—248—15—338—EB—20—398	(15 years)
" III	175—7—217—11—283—EB—20—343	(15 years)
" IV	150—5—185—13—250—EB—15—295	(15 years)
" V	140—6—176—16—236—EB—13—275	(15 years)
" VI	100—5—150	(10 years)

3rd Class :

Group I	200—8—248—15—338—EB—25—488	(18 years)
" II	175—7—217—12—289—EB—20—349	(15 years)
" III	160—6—202—15—292—EB—25—342	(15 years)
" IV	145—5—180—12—240—EB—15—285	(15 years)
" V	125—5—160—10—220—EB—15—250	(15 years)
" VI	90—5—140	(10 years)

The new scales have this advantage that they take longer years to reach the maximum and the salary at the maximum is a little lower in most cases. In arriving at the above scale, I confess, I did not proceed on any mathematical basis because of absence of materials, but upheld the just criticisms of the management against the onerousness of the burden and gave them some relief in the interest of industry.

266. So far as dearness allowance is concerned, the Wage Board expressed the opinion that the dearness allowance should be linked up with All India Average Consumer Price Index number for working class (with 1949=100). The Board consequently observed:

".....the scales of pay and dearness allowance proposed should be linked up with the average consumer Price index number for the year 1963 of the All India Average Consumer Price Index number for working class as base. The dearness allowance is to be revised every year either upwards or downwards on the basis of the average of the previous 12 months. The first revision is to be made in January 1968—if the average of 1967 differs from the average of the year 1965 by 10 points or more upward or downwards the dearness allowance is to be revised at the rate of 50 paise per points as the case may be."

For the purpose of dearness allowance to full time employees, the Board classified areas in the following manner:

Range of Basic Pay	Area		
	III Rs.	II Rs.	I Rs.
Below Rs. 100	30	40	50
Rs. 100 to Rs. 200	40	55	70
Above Rs. 200 and upto Rs. 300	50	65	80
Above Rs. 300 and upto Rs. 400	60	75	90
Above Rs. 400 and upto Rs. 500	70	85	100
Above Rs. 500 and upto Rs. 800	85	100	110
Above Rs. 800 and upto Rs. 1200	100	115	130
Above Rs. 1,200	120	140	150

On the above principle the Board calculated the dearness allowance payable in the following manner:

"4.25. Dearness allowance—Dearness allowance should be paid to non-Journalists at the following rates—

Range of Basic Pay	Arca		
	III	II	I
Below Rs. 100	30	40	50
Rs. 100 to Rs. 200	40	55	70
Above Rs. 200 and upto Rs. 300	50	65	80
Above Rs. 300 and upto Rs. 400	60	75	90
Above Rs. 400 and upto Rs. 500	70	85	100
Above Rs. 500 and upto Rs. 800	85	100	110
Above Rs. 800 and upto Rs. 1200	100	115	130
Above Rs. 1,200	120	140	150

267. The criticism addressed to the scheme of dearness allowance was, in the first place, based on the following observations by their Lordships of the Supreme Court in *Hindustan Times Limited vs Their workmen* (1963) 1 L.L.J. 108(115):

"It is, in our opinion, proper and desirable that the dearness allowance should not remain fixed at this figure but should be on a sliding scale. As was pointed out in *Workmen of Hindustan Motors v Hindustan Motors* (1962-II L.L.J. 352) the whole purpose of dearness allowance being to neutralize a portion of the increase in the cost of living. It should ordinarily be on a sliding scale and provide for an increase on rise in the cost of living and a decrease on a fall in the cost of living. On a consideration of all the circumstances of the case, we direct that a sliding scale be attached to the dearness allowance of Rs. 25 per month as awarded by the tribunal on the lines that it will be liable to be increased or decreased on the basis of Re. 1 for every ten points in case of rise and fall in the cost of living from the base of 400, the 1939 index being taken to be 100, the sliding scale to take effect from 1 April 1959."

It was contended that the same principle should have been followed. So far as the criticism based on the Supreme Court judgment is concerned, the contention overlooks one important point. Their Lordships took 1939 index as equivalent to 100. Years have passed thereafter. The Wage Board has proceeded on a different index basis and not incorrectly. It is not possible to maintain the same dearness allowance when proceeding on different index basis. Otherwise the directions given in the Supreme Court judgment were closely followed.

268. The second line of criticism was that the Wage Board was in error in proceeding on the basis of 1965 index and should have proceeded either on the basis of 1967 or, in any event, on 1966 index. The reason given was that the index number of 1965 was higher by about 20 points over 1966 index, which, if followed, would mean that from January 1, 1968, each employee would be entitled to be paid Rs. 20 more per month as increase in dearness allowance. To me this argument seems to be strange. It was the least part of the duty of the Wage Board to find out the year of lowest consumer price index number for the purpose of finding out the rate of dearness allowance. It may as well be, that a Wage Board should not hunt for the highest index number in order to fix a very high rate of dearness allowance arbitrarily. Apart from the fact that of the indices for the three years, 1965, 1966 and 1967, that of the year 1965 happened to be the highest, there was no other reason given to me why the index number of that year should be discarded in favour of the index number of any of the two subsequent years. After all only the average figure was taken into consideration. It was contended, somewhat desperately that the dearness allowance should not have been linked up with consumer's price index. The basis of this argument was that the Committee on Fair Wages had not so done. I cannot accept the views

of the Committee as the last word on the subject. Consumer's price index is an index of cost of living. That is a relevant consideration in fixing dearness allowance according to the view expressed by the Supreme Court in the Case of Clerks of the Calcutta Tramway Co. Ltd. (1956) II L.L.J. 450.

269. The third line of criticism was that the rate of revision, namely, 50 paise per point was excessively high and arbitrary. The criticism rested there and was not further developed before me. I do not know why 50 paise per point must necessarily be condemned as excessively high or arbitrary or why Re. 1 or 25 paise per point should be chosen.

270. The fourth criticism was that there was no justification for cent percent neutralisation by grant of dearness allowance. It does not appear from the recommendation of the Wage Board that cent percent neutralisation was granted, although even cent percent neutralisation may be permissible in the case of lowest paid workmen.

271. The last line of criticism was that the Wage Board was in error in not considering the capacity of the industry to pay the increased rates of dearness allowance recommended by itself. It is no doubt true that this is a relevant consideration in fixing rates of dearness allowance. I have already held, in connection with fixation of wages, that the industry, excepting in a few given cases, has the capacity to shoulder the burden of the recommendations. If that finding stands, little remains of this branch of the criticism against dearness allowance.

272. I note that there is nothing to show that the wages neutralised living costs. The wages needed to be supplemented by dearness allowances. The rate at which dearness allowance has been allowed does not appear to be improper.

273. Certain newspapers placed in class III, however, present greater difficulties. In paragraph 3.21 (at page 26) the Wage Board observed, "establishments belonging to class III except Indian Express do not appear to be in a position to bear the burden". Of the third class newspapers unable to bear the burden. I am concerned with Ananda Bazar Patrika Private Limited and Indian National Press (Bombay) Private Limited. Their financial impotency is evident from the chart at page 22 of the Wage Board's recommendations. Now, incapacity on the part of those two newspaper establishments to bear the burden of the recommendations of the Wage Board would, without more, entitle those two establishments not to implement the recommendations, at least not to the extent recommended by the Wage Board. The Wage Board, however, thought of squeezing in its recommendation within the limited financial capacity of the aforesaid two news paper establishments on the following lines of reasoning:

".....it appears that the management of all those papers which are not in a position to bear additional burden imposed by the new wage scales, is far from satisfactory. Tightening up the organisation can enable these papers to pay higher wages without difficulties."

I am not convinced with the reasons given by the Wage Board. In the first place, I do not have any evidence before me showing that the management of all the incapable papers were far from satisfactory. It may just be that there is scope for better management. Scope for improvement of management is, however, a different concept. On that concept, the present managements should not be condemned as incompetent, in a wholesale manner. Management is a problem of many variables and has to adjust itself to various demands, political, social and economic. Better management is not a mere question of stopping a whole in the expenditure here or plugging a gap there. I do not dispute that betterment of management is possible but do not agree that alone will bridge the difference between the capacity and the burden sought to be imposed. Then again, it is easy to advise tightening up of an organisation, but difficult to prescribe the manner in which the tightening should be applied. I wonder how much tightening up will be required to fit in the difference between the average net profit and the burden imposed by the Wage Board, even if there be "room for tightening up". That was not indicated by the Wage Board. That was also not established by evidence. Some criticism was made against contributions made to certain political party funds and donations given to certain mountaineering expedition, for example by Ananda Bazar Patrika. It was argued that such wasteful expenditure should be tightened up. I do not feel impressed. Newspapers seek political party patronage for gaining some economic advantages for themselves. They also financially support some adventures for attracting more readers. These are aspects of modern management and I am not prepared to decry them. In my

opinion, improvement in management and economy in expenditure is possible to some extent and may somewhat improve the position. Even then, there is no indication that the incapacity will be fully remedied.

274. I have, therefore, to think of otherwise salvaging the situation. The learned Counsel appearing for the management and the workmen had no common platform to meet. The management was determined not to increase anything, the workmen were equally determined not to accept anything less than what the Wage Board had recommended. The situation is made much more complicated by the assurance given to the workmen that 75 per cent of the benefits under the Wage Board would be assured to them irrespective of the result of this award. I cannot, therefore, think out fresh scale of wages for the workmen within the present financial capacity of the incapable papers. There is also no evidence before me what the scale of wages would have been within the financial capacity of the two newspaper establishments above named.

275. Nevertheless, I have to think of certain measures in order to make the burden bearable for the two abovenamed newspaper establishments. This, I think may be effected in the following manner:

- (i) The recommendations as to fitment with at least one increment need not apply to them, because the scales with fitments will be too much for them.
- (ii) There should not be any increases in other allowances as mentioned in para 4.27 of the recommendations for a period of three years from the date of publication of this award.
- (iii) They should not be made to pay the total arrears, in one payment, as recommended in para 4.36 but should be allowed to pay the same in equal instalments spread over three years.

Over and above, they will be getting the advantage of spacing out the scales, allowed by the Tribunal, to all newspaper establishments, classes I, II and III. The two establishments have already agreed to shoulder 75 per cent of the burden voluntarily. For the remaining 25 per cent, the relief proposed should prove enough, if they put their houses in better order.

276. This is the proper stage in the award where I should consider the grievance of the managements against the recommendations for fitment. In paragraph 4.29 the Wage Board recommended

"4.29. Fitment—(1) For the purpose of fitment—

(i) Relevant dates means—

In the case of Class I, II and III of newspapers and News Agencies and Class I Periodical—1st January 1967.

In case of all others—1st July, 1967."

The Central Government made a modification in the above clause by substituting the date July 1, 1967 for the date January 1, 1967. In sub-clause (5) of the same paragraph the Wage Board recommended:

"After the initial fixation of basic pay for a non-Journalist as set forth in paragraphs 2, 3, 4 above each non-Journalist shall be given one increment on the basis of five years completed service in the group he was immediately before coming into operation of these recommendations.

Provided that in no case more than three increments shall be given; and provided further that by fixation of his pay in the manner suggested above no one will get more than the maximum of the revised scale."

The Central Government introduced a small amendment in the proviso in that "three increments" were changed into "two increments".

277. The grievance made by the managements generally proceeded on the following line of argument:

- (a) the fitment as recommended by the Wage Board put a very heavy financial burden on newspaper establishments.
- (b) the recommendation to give one increment for each 5 years of completed service is unnecessary in the case of employees, who are already in proper incremental scales of pay.

- (c) the totality of the financial burden imposed cumulatively by the recommendations of the Wage Board for non-Journalists taking along with the recommendations of the Wage Board Journalists is beyond the financial capacity of most of the newspaper establishments.

I need remind myself that although of the opinion that classes I and II newspaper establishments were in a position to bear the burden likely to be imposed by the proposed wage scales, the Wage Board observed that establishments belonging to class III, except the Indian Express, did not appear to be in a position to do so. Then again, in paragraph 3.30 the Board observed:

"The Board has tried to reduce the financial burden by revising the tentative proposals as the burden was too heavy for most of the units of the industry to bear."*

The Board, however, confessed inability to reduce the load.

278. Now, the law regarding fitment or adjustment of wage scales has been repeatedly laid down by the Supreme Court. In **French Motor Company's case**, (1962) 11 L.L.J. 744 (750-751) Wanchoo, J. (as he then was) observed:

"Generally adjustments are granted when scales of wages are fixed for the first time. But there is nothing in law to prevent tribunal from granting adjustment even in cases where previously pay scales were in existence but that has to be done sparingly taking into consideration the facts and circumstances of each case. The usual reason for granting adjustment even where wage scales were formerly in existence is that the increment provided in the former wage scales were particularly low and therefore justice required that adjustment should be granted a second time."

The adjustment granted by the tribunal in the above mentioned case, however, was struck down on the two-fold ground that there was a generous scale of increment in force previously and that the company was paying to the workmen the highest wages in its own line of business. The law was further elaborated by Das Gupta, J. in the case of **Hindustan Times** (1963) 1 L.L.J. 108(116), in the following language:

"It may well be true that in the absence of any special circumstance adjustment of the nature as allowed in this case by allowing special increment in the new scales on the basis of service already rendered may not be appropriate. Clearly, however, in the present case the tribunal took into consideration in deciding the question of adjustment the fact that it had been extremely cautious as regards increasing the old wage scales. Apparently, it thought, it would be fair to give some relief to the existing employee by means of such increase by way of adjustment while at the same time not burdening the employer with higher rates of wages for new incumbents."

In the case of **Greaves Cotton and Company Ltd.**, (1964) 1 LLJ 342 (349-50), Wanchoo, J. considered his own judgment in **French Motor Company's case** (supra) and laid down the broad proposition:

"The question, therefore, whether adjustment should be granted or not is always a question depending upon the facts and circumstances of each case."

Keeping in view the guide lines provided by the above judgments, I have now to see whether adjustments in the matter of fitment, as recommended by the Wage Board in the instant case, was justified. The scale of wages recommended by the Wage Board seems to be generous and, as the Wage Board itself admits, "too heavy for most of the units of the industry to bear". It does not appear from the evidence that the previous scale of wages, as prevailing in the different newspaper establishments was much too low, although it may be they were somewhat below the fair level. In many cases, they were fixed on the basis of awards or settlements or agreements, in not very distant past. Where the wage scales have been fixed generously, even to the extent of being much too heavy for the newspaper establishments, there is no reason to grant a maximum of two adjustments for the purpose of fitment as a matter of course. I therefore, reduce "two increments" in proviso to sub-clause (5) in paragraph 4.29 of the recommendations of the Wage Board (as modified by the Central Government) to "one increment" only excepting in cases of financially incompetent papers in which there will be no fitment by increase in the scale.

279. There remains a minor question for my consideration, namely, the scheme for gratuity. In paragraph 4.28 of the recommendations, the Wage Board observed:

"The gratuity scheme as applicable to Working Journalists as per the provisions contained in the Working Journalists (Condition of Service) and Miscellaneous Provisions Act, 1955 subject to the decision of the Supreme Court shall be applicable to the non-journalist employees. If there be any gratuity scheme to any non-journalists immediately before coming of this recommendation in force in that case at his option he can continue to be governed by that scheme instead of the one recommended above."

For the purpose of clarification, I need state that the Report made by the Wage Board on Working Journalists of Newspaper industry is now sub-judice before the Supreme Court. I need also state that nobody amongst the employees opted for any existing gratuity scheme, if any, subsisting in any particular newspaper establishment.

280. This recommendation by the Wage Board was condemned as a recommendation by escapologists. It was argued on behalf of the workmen that payment of gratuity to Working Journalists was regulated by Section 5 of the Act mentioned above and that the provisions of that Section would not apply to non-journalist workmen of its own force. What the Wage Board wanted to do, it was contended, was to extend the scope of the Working Journalists (Conditions of Service) Miscellaneous Provisions Act and to include thereunder non-journalists workmen, whom the Parliament, in its wisdom, left out of the Statute. Another criticism advanced against what the Wage Board did was that Section 5 of the Act was disadvantageous in certain respects to gratuity schemes prevailing in different industries and approved of by several judgments of the Supreme Court and there was no reason to clamp upon non-journalist workmen the disadvantageous provisions of the Act regarding payment of gratuity.

281. The principles laid down by the Supreme Court on payment of gratuity in *Express Newspaper (Private) Limited vs. Union of India* (1961) I LLJ 339, *The Garmment (Cleaning Works v. its workmen)* (1961) I LLJ 513, *Calcutta Insurance Co. Ltd. vs. their workmen* (1967) II LLJ 1 may be tabulated in the following manner:

- (i) The benefit of gratuity is available in addition to benefits of Provident Fund.
- (ii) Fifteen years of continuous and meritorious service is too long a period and should be reduced to five years in cases of termination of service by the employer for reasons other than misconduct causing financial loss to the employer and ten years in cases of voluntary retirement before reaching the age of superannuation and of resignation.
- (iii) In case of dismissal for misconduct, the workmen should be entitled to receive gratuity only on completion of fifteen years of service and further where the misconduct entails financial loss to the company, the company would be entitled to set off the loss against the amount of gratuity payable.
- (iv) The financial capacity of the employer to bear the burden of gratuity should be determined by a practical approach to the question, namely by determining how much would become annually payable by way of gratuity.

The law was restated with some modifications in *Delhi Cloth and General Mills Company Limited vs. its workmen* (1969) II LLJ 755 (Shah, J. speaking for the Supreme Court). The Supreme Court observed that the determination of gratuity was not based on any definite rules. In each case it must depend upon the prosperity of the concern, needs of the workers and the prevailing economic condition, examined in the light of auxiliary benefits which the workers may get on a determination of employment. On the question of payment of gratuity to a workman dismissed for misconduct, the Supreme Court stated the law in the following language:

".....the expression 'misconduct' covers a large area of human conduct. On the one hand are the habitual late attendance, habitual negligence and neglect for work; on the other hand, are riotous or disorderly behaviour during the working hours at the establishment or any act subversive of discipline, wilful insubordination or disobedience.

Misconduct falling under several of these latter heads of misconduct may involve no direct loss or damage to the employer but would render the functioning of the establishment impossible or extremely haxardous... a distinction should be made between the technical misconduct which leave no trail of indiscipline, misconduct resulting in damage to the employer's property which may be compensated by forfeiture of gratuity or part thereof, and serious misconduct which though not directly causing damage, such as acts of violence against the management and other employees or riotous or disorderly behaviour in or near the place of employment is conducive to grave indiscipline. The first should involve no forfeiture of gratuity to the workmen...to hold otherwise would be to put a premium upon conduct destructive of maintenance of discipline."

Contrasted to what the Supreme Court observed, there are some disadvantages incorporated in the body of Section 5, as dismissal by way of punishment. The material portion of Section 5 is set out below:

"5.(1) Where—

- (a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and—
 - (i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action; or
 - (ii) he retires from service on reaching the age of superannuation; or
 - (b) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than ten years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that newspaper establishment on any ground whatsoever other than on the ground of conscience; or
 - (c) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and he voluntarily resigns on or after the last day of July, 1961, from service in that establishment on the ground of conscience; or
 - (d) any working journalist dies while he is in service in any newspaper establishment.
- the working journalist or, in the case of his death, his nominee or ominees or, if there is no nomination in force at the time of the death of the working journalist, his family, as the case may be, shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months:

Provided that in the case of a wroking journalist referred to in clause (b), the total amount of gratuity that shall be payable to him shall not exceed twelve and half months' average pay:

Provided further that where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall not be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months but shall be equivalent to—

- (a) three days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;

- (b) five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such part service exceeds five years but does not exceed ten years; and
- (c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

I need also notice that portions of Section 5 will not be applicable to non-journalist workmen, for example the portion dealing with voluntary, resignation of a working journalist on the ground of conscience.

282. Thus, there are now two classes of misconduct where gratuity may not be paid to the workmen, namely, (i) misconduct entailing financial loss to the company, in which case the loss may be set off against the gratuity payable and the balance, if any, only will be paid to the workman and (ii) misconduct involving riotous and disorderly behaviour in or near the place of employment entailing grave indiscipline.

283. In my opinion, it was not wise of the Wage Board to have applied the provisions of Section 5 of the Working Journalists (Condition of Service) Miscellaneous Provisions Act, 1955, subject to the decision of the Supreme Court, to non-journalist workmen as well. It would have been better for them to have fixed a gratuity scheme for non-journalist workmen. I think, therefore, that a scheme of gratuity should be framed for non-journalist workmen. Before I do so, I remind myself of the following observation by the Supreme Court in *Delhi Cloth & General Mills Company Ltd.* (supra):

"We consider it right to observe that in adjudication of industrial disputes settled legal principles have little play; the awards made are often the result of ad hoc determination of disputed questions, and each determination forms a precedent for determination of other disputes. An attempt to search for principle from the law built up on those precedents is a futile exercise."

My task is made more difficult because little evidence was led as to what should be the gratuity scheme for non-journalist workmen. It was not to the interest of the management to lead evidence because they would like very much to await the final decision of the Supreme Court on the point. The workmen had no concrete suggestion to offer. I have, therefore, to essay into unsurveyed expense with neither a compass nor a guide. All that I can do is to bear in mind the observations by the Supreme Court on this topic, from time to time made and to attempt a gratuity scheme within the framework of those observations. In my opinion a practical gratuity scheme will be as hereinafter indicated:

- | | |
|--|---|
| 1. On the death of employee while in service. | One month's basic salary for continuous service subject to a maximum of 15 month's basic salary. |
| 2. On retirement from service after completion of 10 years continuous service. | One month's basic salary for each year of continuous service subject to a maximum of 15 months' basic salary. |
| 3. On termination of service by the company after five years of continuous service excepting on the ground of misconduct causing financial loss to the company or subversive of discipline. | One month's basic salary for each completed year of continuous service but not more than 15 months' basic salary. |
| 4. On voluntary retirement before reaching the age of superannuation or resignation by the employee after completing 10 years of continuous service. | One month's basic salary for each year of continuous service subject to a maximum of 15 months' basic salary. |
| 5. On dismissal after completion of 15 years' continuous service, for misconduct causing no financial loss to the employer or misconduct not subversive of discipline in the employer company. | 15 months' basic salary and no more. |

- | | |
|---|--|
| 6. On dismissal after, completion of 15 years' continuous service for misconduct causing financial loss to the company. | 15 months' basic salary from which the employer company will be at liberty to subtract the amount of loss and balance if any only. |
| 7. On dismissal after completion of 15 years' for misconduct subversive of discipline in the employer company. | Nil. |

284. Before I leave this point, I need dispose an aspect of the matter very strongly urged by the management. It was contended by the management that there should be either no gratuity scheme framed or framed at a high rate because Wage Board increased wage scales and dearness allowance almost beyond the financial capacity of the employers to pay. Further there were the corresponding increase in the rates of fringe benefits like Provident Fund, Employees' State Insurance, etc. I do not make much of the argument. Gratuity is not an amount which is payable to all the workmen every year. It becomes payable once in the service life of a workman on contingencies heretofore indicated, which may not happen every year or happen in a very large number in a year.

This is my award so far as gratuity is concerned.

Date of Commencement of the Award

285. In item I, I am left with one other objection, namely, the objection against the date of operation. The Wage Board recommended that the recommendations should come into operation from January 1, 1967. This date was amended to July 1, 1967, by an order of the Central Government. By itself the date July 1, 1967 is unobjectionable. It was, however, argued that between some newspaper establishments and their workmen, there existed certain awards or settlements in operation and so long as the operation of such awards or settlements were not lawfully terminated, the recommendations of the Wage Board could not come into operation as between those newspaper establishments and their workmen. By way of illustration, I may cite one example. Desai award, Ex. 47, contains the following provision:

"Both the parties are now agreed that I should fix the period of operation of this award and that such period should commence from 1st August 1962. I fix the period of operation of this award for 5 years from 1st August, 1962".

Under the aforesaid provision, the award was to remain in operation till 31st July, 1967. As such, so far as Bennett Coleman & Co. Ltd. is concerned, the date of operation could not be fixed from July 1, 1967. Even if I uphold this argument, July 31, 1967 is now passed. There is no further impediment to the recommendations coming into operation. All that I can now do is to award that subject to any bar imposed by any agreement or award between particular newspaper establishments and their workmen, the date of commencement of the recommendations would be from July 1, 1967.

286. This finishes my survey of the aspects that were necessary for me to consider in respect of item I in the Schedules of the references.

Item II in the Schedule in NIT-1 of 1968 and Item III in the Schedule in NIT-1 of 1969.

287. The Wage Board grouped or clubbed workmen in various categories or groups. The Board, however, did so with some sort of a guilty conscious. In remark 2 at page 39 of the Report the Board observed:

"If any employee or any categories of employees is not included in the above groupings, they should be placed in such groups as would be determined by mutual negotiations between the management and the representatives of employees."

Although the Wage Board grouped the workmen in a particular manner, there appears the following observation in remark 1 at page 39:

"It is not obligatory for a newspaper establishment to comply any or all of the categories of employees grouped above. Some of the functions may be combined. The non-Journalist employees shall continue to discharge

the functions which they had been performing before the coming into force of these recommendations."

The liberty given to newspaper establishments as in the above quotation is bound to make prescription of a scale of wage for a combined category of workmen very difficult. I am not however concerned with that aspect of the matter at the present moment because that difficulty does not arise now. I have set out hereinbefore the apologetic remarks by the Wage Board in order to show that the groupings made by the Board were not all comprehensive.

288. That it is not so is admitted by the newspaper establishment of the Statesman Limited, which enclosed a list of categories of workmen along with its written statement. The newspaper establishment of Bennett Coleman & Company Limited was very much reluctant to admit that any categories stood excluded from the groupings made by the Wage Board. The workmen however produced a long list of excluded categories. Ultimately, however, there was this agreement between the management and the workmen that the categories in the Bennett Coleman Company Limited newspaper establishment should be as stated in Ex. 47 (Desai award), and those categories of the award not included in the groupings by the Wage Board should be considered as excluded categories. The Indian National Press (Bombay) Private Limited did not admit the existence of any excluded category. The workmen, however, pleaded for a short list of thirteen excluded categories as hereinbefore set out in paragraph 167 hereof. In Annexure B to the written statement filed by the employees of Hindustan Standard and Ananda Bazar Patrika, represented by the Ananda Bazar Patrika, Hindustan Standard, Desh Employees Union, there is a list of excluded categories of workmen, both in the Administrative and in the Factory side and also there is an indication of the groups in which they should be placed. The other newspapers organisations and their workmen did not fight over the non-existence or existence of excluded categories of workmen, possibly because in their organisations there was no excluded category.

289. The workmen of the Statesman Limited filed a chart of missing categories (Ex. W) and therein it was shown in which category the management wanted to place them and in which category the workmen wanted them to be. In course of evidence, there was no dispute raised that the list as in Ex. W, was either an incomplete or an exaggerated list. I therefore accept that Ex. W is the correct list of missing categories in the Statesman Limited, excepting that thereto the category of Daftry A and B should be added, under heading "Canteen Peon, Subordinate and Transport Staff", as admitted in the written statement of the Statesman Limited.

290. I now come to the missing categories, if any, in the Bennett Coleman & Company Limited. The point was intended to be fought out with much vigour but the vigour petered out when both sides wanted to proceed on the basis of Desai award. Desai award (Ex. 47) was based on compromise. That award contained a number of categories. It was not possible for the Bennett Coleman & Company Limited to disown the categories mentioned in the award. I should however note that in the body of the award there were several categories mentioned against which it was noted that there was no existence of those categories in Bennett Coleman & Company Limited. For example, Superintendent clerks, Mechanic, Tele-printer operator on special duty, Havildar, Jamadar, Deputy Superintendent in the news department (English), Assistant Carpenter (News department—English), Elrod machine operator, Brake man, Moulders, Router, Assistant carpenter (Composing department) and many more. Therefore, all that I need direct is over and above the categories named by the Wage Board the other existing categories of workmen, as named in the Desai award, shall be included in the categories of workmen in Bennett Coleman & Company Limited.

291. The list submitted by the workmen of Ananda Bazar Patrika Limited does not appeal to me. The effort to classify clerks on the basis of types of clerical work done by them and then to place them in different groups is sure to raise two difficulties. In the first place, the duties of a clerk may not be changed or he may not be transferred from one department to work in another. In the second place, such a classification may not be conducive to industrial peace. There is another reason why I find it difficult to accept the list submitted by the workmen of Ananda Bazar Patrika Limited. There is little evidence to show that those particular categories of workmen actually work in the organisation of Ananda Bazar Patrika Limited. Where from the categories were collected does not appear. The management was not confronted with the list. I am therefore reluctant to proceed on the basis of that list.

292. I have now to deal with the list of excluded categories of workmen as contended by the employees of Indian National Press (Bombay) Private Limited.

The workmen did not plead that there was exclusion of any category in the Administrative side. They however stated that 13 categories in the Factory side stood excluded. Out of the thirteen again, Workmen's witness Balakrishna Balaji Nagwaker admitted that the following categories had no existence in the Indian National Press (Bombay) Private Ltd. establishment, viz., (i) Baller Roller man, (ii) Senior rotary assistant, (iii) General Assistant, (iv) Block Caster and (v) Cylinder machineman. The existence of remaining categories in Indian National Press (Bombay) Private Limited was disputed before me, and the case of the workmen does not stand proved.

293. I am thus left with Ex. W, the additional categories of workmen named in Desai Award (Ex. 47) and the nine categories out of the thirteen as in paragraph 167 hereof. They constitute the missing categories ex-concessis. I cannot do more than that in the absence of evidence.

294. Now, the question remains in which group the missing categories would be fitted in. So far as Statesman Limited is concerned, Ex. W shows the quantum of difference on this point between the management and the workmen, which I set out below:

Missing Category	Department	Company's place- ment in Wage Board group	Suggested Wage Board group by the Unions
1	2	3	4
<i>Composing</i>			
1. Asstt. Printers		I	I
2. Relief Press Advt. Asstt.		I	I
3. Press Advt. Asstt.		I	I
4. Junior Lino Mechanic		II	I
5. Stone-Hand		II	II
6. Case Room Cleaners		V	III
7. Lead Rule Casters		V	III
8. Metal Caster		V	III
9. Block Room Asstt.		III	II
10. Advt. Revisors			IV (Admnst.)
11. Advt. Readers			V (Do.)
12. Lino Cleaners		V	V
<i>Rotary & Stereo</i>			
1. Stereo Casting Headman		II	I
2. Rotary Machine Headman		II	I
3. Stereo Moulding Men		III	II
4. Rotary Machine Men		II	II
5. Stereo Casting Men		II	II
6. Rotary Machine Men (Doing Rewinding)		IV	II
<i>Workshop</i>			
1. A & B Grade Supervisors		I	I
2. Cycle Mistry		III	III
3. Cobbler		V	V
4. Hammerman		V	V
5. Electrician (A & B)		III	II
6. Fitter (A, B & C)		III	II
7. Turner (A & B)		III	II
<i>Job</i>			
1. Supervisors (A & B Grade)		I	I
2. Lino Cleaners		V	V
3. Cutting Machine Men		IV	III
4. Rulling Machine Men		IV	III
5. Readers			V (Admnst.)

1	2	3	4
<i>Canteen, Peon, Subordinate and Transport Staff</i>			
1. Chief Inspector	V	V	
2. Inspectors	V	V	
3. Naik	V	V	
4. Head Cook	IV	IV	
5. Asstt. Cook	IV	IV	
6. Head Khansama	IV	IV	
7. Kahnsamas	V	V	
8. Head Bearer	V	V	
9. Lobby Durwan	V	V	
10. Transport Supervisor	I	I	
11. Asstt. Motor Mechanics	III	I	
12. Mason-cum-Painter	VIII (Admnst).	III	(Factory)
13. Tailor	VIII Do.	VIII	(Admnst.)
14. Orderlies	VIII Do.	VIII	Do.
15. Durwans	VIII Do.	VIII	Do.
16. Canteen Supervisors	VI Do.	VI	Do.
17. Assistant Canteen Supervisor	VI Do.	VI	Do.
18. Masalchi	VIII Do.	VIII	Do.
19. Head Sweeper	VIII Do.	VII	Do.

Process

Workers A, B & C : This is how the Company calls the categories of the Process department, many of whom are included in the Wage Board Groups. The Categories corresponding to A, B & C are like Colour Etcher, Line Etcher, Half-tone Etcher, Engraver, Metal Printer, Camera Operator, Carpenter, Mounter, Proofer, Machineman, Stereomaker, etc.

Category	Wage Board Grouping done by Company	As in the Wage Board
1. Supervisors (A & B Grade)	I	I
2. Colour Etcher	I	I
3. Phototransferency	I	I (Missing category & groups suggested by the Unions).
4. Engraver	II	I Do.
5. Dark Room Colour Photographer	II	I Do.
6. Half tone Etcher	II	II
7. Camera Operator	II	II
8. Dark Room Men	III	III
9. Metal Printer	III	I
10. Carpenter	III	II
11. Machine Men	III	II
12. Stereo Men	III	III
13. Line Etcher	IV	IV
14. Mounter	V	V
15. Proofer	V	V
16. Plate Maker		III
17. Learner (Helper)		III
18. Artists		(as recommended by the Wage Board for Working Journalists, i.e., Group III of the Working Journalists Wage Board).

The grouping is agreed excepting in about 26 instances. In respect of disagreed items, where the workmen claimed higher groupings no reason has been given

as much, as there was no reason given for the groupings made by the management. Since I am following a line of least resistance, in the absence of evidence, I allow to the missing categories in the Statesman Limited, the same groupings as offered by the management and shown in Ex. W, and no higher status, excepting that I accept the grouping proposed by workmen, where the management is silent. The Dairies are placed in Group VII of Administrative staff, as done by the Wage Board.

295. I am not satisfied, on the evidence, with the existence of any excluded category in Ananda Bazar Patrika Private Limited. I have already given my reasons, why I am not satisfied with the list submitted on behalf of the workmen.

296. The same is my view with the categories said to have been excluded from the Indian National Press Bombay Limited.

297. I am, however, confronted with a difficult task in respect of excluded categories in Bennett Coleman and Company Limited. If the Desai Award (Ex. 47) is to serve as the basis, then there are more categories of workmen in the company than those named by the Wage Board. I have however, no evidence before me as to what duties are performed by the excluded categories. In the Additional Written Statement filed on behalf of Times of India and Allied Publications Employees Union and Bennett Coleman and Company Limited Employees Union there is a list of excluded categories, the duties performed by them and the group in which they should be placed. That case was, however, not ultimately proved by evidence. All that I can do is to indicate that categories to be found in Desai Award (Ex. 47) but not named by the Wage Board are the excluded categories in Bennett Coleman and Company Limited. I cannot fit them up in the Groupings of the Wage Board for want of evidence. That must therefore be left to be determined by the parties.

298. This Tribunal very much dislikes that this must be so. But if the parties will merely raise a dispute and not prove the validity thereof, the Tribunal cannot proceed in an off-hand or arbitrary basis and mend the lacuna.

Item No. 3 of the Schedule of NIT-1 of 1968.

299. This item may be disposed of within a short compass. At the time when the reference was first made to this Tribunal, newspaper establishments were not properly described. The newspaper establishment publishing the Free Press Journal was not described as Indian National Press (Bombay) Private Limited, but merely as the Free Press Journal. This error, which the Central Government admitted had been inadvertently made, was corrected later on and the newspaper establishment publishing the Free Press Journal was properly described, by an amendment in the original order on March 7, 1969.

300. The reason why Free Press Journal wanted to be classified not in class III but in class IV was pleaded in paragraph 44 of the written statement herein before set out. What was stated therein was:

- (i) that the classification should have been based not on the average revenue of the three accounting years, 1963, 1964 and 1965 but on the average revenue of the three accounting years of the company (beginning with July 1), namely, 1962-63, 1963-64 and 1964-65;
- (ii) according to the individual gross revenue the Free Press Journal would fall not in group III but in group IV.

There might have been some arguable point, based on individual revenue, if the dispute was between the establishment of Free Press Journal and the workmen. The workmen, however, are all workmen of Indian National Press (Bombay) Private Limited (now Indian National Press Bombay Limited). Accounts of the Free Press Journal are not separately maintained but are consolidated in the accounts of the newspaper establishment of the Indian National Press Bombay Limited. From the profit and loss account of the company, (Ex. 65 series), it appears that the company made the following net profits:

(i) For the year ending June 30, 1963	..	Rs. 1,76,259.65
(ii) For the year ending June 30, 1964	...	Rs. 74,697.67
(iii) For the year ending June 30, 1965	..	..

It further appears that for the year ending June 30, 1966, Ex. 65(c), the company made a net profit of Rs. 2,68,135/-. Also it appears from the 32nd Annual Report

and the Statement of Account for the year ended June 30, 1967, Ex. 65(d), that the company was converted from a Private Company to a Public Limited Company and made a net profit of Rs. 1,92,686. The following extract from the Directors Report indicates prosperity:

"You will also please note from the Profit and Loss account that the Company has made satisfactory progress."

Mr. Shah, appearing for the management, very strongly contended that the Free Press Journal should be classified on the basis of its own separate revenue, should be placed in class IV and the wages of its employees should be settled accordingly. This argument of Mr. Shah overlooked the fact that there is no employee employed by the Free Press Journal. Admittedly all are the employees of Indian National Press, Bombay Limited which publishes a number of newspapers. How, the Wage Board made the following recommendations:

"4.12. In the case of a group, English daily newspapers including the 7th day edition by whatever name it is called published from one centre by a newspaper establishment will form one unit and all Indian language daily newspapers published from one centre including the 7th day edition by whatever name it is called will also form one unit:

Provided that common staff of non-Journalist employees for the purpose of scales of pay and allowances shall be placed in highest class of the unit."

301. Now, the biology of years chosen by the Wage Board were not improper years. The income earned by the newspaper establishment in those years was not accidental. Excepting for one year ending in June 1965, the establishment made good profit.

302. The question remains for me to decide whether the classification should be made on the basis of the individual revenue of the Free Press Journal. Now, admittedly workmen are employed by the Indian National Press Bombay Limited. There is no reason why the workmen should not share in the profits of the employer. Judged by this test it was not disputed, that Free Press Journal fell in class III. Mr. Shah, however, argued that the recommendations were wrong in principle. I do not agree with him. When a newspaper establishment publishes several newspapers mostly from the same Printing Press and mostly with common staff, and the same capital has been employed in building up the assets, the profits made by the principal newspaper establishment should count. There is no reason why the classification of the newspaper establishment should not be made on the gross revenue of the principal establishment.

303. I therefore hold that the Free Press Journal has been properly classified in class III.

ITEM NO. 2 OF THE SCHEDULE IN NIT-1 OF 1969

304. The main ground on which the management of Bennett Coleman and Company Limited wanted to exclude the employees in the Job and Process departments at Bombay and Delhi from the benefits of the recommendations of the Wage Board was that those employees were not employed in any newspaper establishment and did not form part of non-journalists employees in the company's newspaper establishments at Bombay and Delhi. It was affirmatively pleaded that the job and process departments at Bombay and Delhi primarily handled commercial printing work for outside parties. These two departments, it was alleged, maintain separate accounts, utilise separate machinery and have separate staff. There was no justification, it was pleaded, to extend the benefits of the recommendations of the Wage Board to employees who worked in relation to the commercial printing for outside parties. It was lastly pleaded that the job and process departments at Bombay and Delhi are financially weak units of the company and have been incurring losses. Nevertheless, the workmen were receiving very high wages compared to wages paid in the same region to workers in other printing presses.

305. As a matter of ad hoc arrangement, I need notice, the workers in job and process departments are receiving Rs. 20/- per month in addition to their wages as interim payment, with effect from May 1, 1968, on condition that the amount so paid to them will have to be adjusted after the publication of the award.

306. The grounds on which the workers insisted upon inclusion of the job and the process departments under the category of newspaper departments and their entitlement to the benefits of the recommendations of the Wage Board are, (i) job and the process departments are integral part of the newspaper establishment and are entitled in law to have a uniform wage structure, (ii) the accounts of the two departments also form integral part of the accounts of Bennett Coleman and Company Limited indicating the complete integrality of these two departments with any other establishment of the company, (iii) some of the top officers of the company on the production side are working both for the newspaper department and the job department, (iv) establishment department, administration department, personnel department, security force and maintenance department are all common for both departments, (v) both the departments derive benefits from the common resources of the company as a whole, (vi) the circulation department and the ink department are also common for the job and store departments, (vii) no depreciation is charged or shown in the accounts for the purpose of income tax, on the machinery or lands and buildings for the use of job and process departments; whatever depreciation is charged and income tax rebate claimed are calculation on the entire fixed assets of the company.

307. I am constrained to observe that the picture painted by the management about separate existence of the job and process departments as departments distinct from the newspaper department is not a correct picture. Witnesses examined on behalf of the management did not bear out what was pleaded by the management in the written statement. K. C. Ramnan, witness No. 2 for the management stated:

"The Job department has three special departments, namely, composing, letter press machine and binding department. In composing department we deal with catalogues, booklets, brochure, magazines and books and job department prints for the company ledgers, account books and other stationary printing materials as also a monthly journal known as 'Science to-day'. The job department also prints a fortnightly known as 'Indrajai Comics'."

He however added a rider emphasising upon the fact that in the actual production of the newspaper 'Times of India', the job department did not do anything. The above portion of his examination in-chief is revealing in two respects. The job department caters to the official needs of the Bennett Coleman and Company Limited's newspaper establishment and also produces a monthly and a fortnightly journal. Further, in his examination-in-chief he spoke about the accounts of the job department in the following language:

"The job department maintains a separate account of its own. That account is upto billing only. Thereafter the job department accounts are consolidated with the main accounts of the company."

What was stated by him does not really amount to the maintenance of a separate account for the job department. The impression that this evidence gives is that the job department account formed part of Bennett Coleman and Company Limited's accounts. Only a preliminary sectional account upto a particular stage was maintained by the job department.

308. In respect of process department the evidence was equally unhelpful to the management. He stated:

"The Process department makes blocks for the five dailies, journal known as Science to-day, Times of India Annual and Times of India Year book and Directory. The Directory and the Year book are neither a newspaper nor a journal. The Process department also does work for the job department, which may include orders placed by outside clients. The workmen under the Process department are not transferred to newspaper section and vice-versa. We do not have a separate Process department at the Ahmedabad Press. The block requirements by the Ahmedabad Press are made by outside block-makers."

The above extract goes to show that the Process department is a virtual part of the newspaper section. It is common knowledge that newspapers use large number of blocks every-day as illustrations both in news and in advertisement portions. Such illustrations cover considerable parts of the pages of a newspaper. The better the illustrations, the more attractive is the newspaper. The Process department admittedly prepares block for the newspapers. I do not find where

is the equity in excluding the workmen, engaged in making such important contribution to the publication of newspapers, from the benefits of the recommendations of the Wage Board.

309. V. G. Karnick, Personnel Manager, also gave evidence in this matter. He stated.

"Excepting for printing stationery goods for different newspapers and journals, the Job department does job works. Two of the publications of the Bennett Coleman and Company Limited, namely, the multi-lingual paper the Indrajai Comics and the English monthly known as Science to-day are printed by the Job department. The Job department also does work for outsiders. The process department prepare blocks for different newspapers and journals and also does work for outsiders. As between newspaper department and the job department, inter-departmental transfers are not made because job department is treated as a separate department."

This evidence also goes to show that the job and the process departments do considerable work and contribute to the publications of the daily newspapers of Bennett Coleman and Company Limited.

310. Amongst the witnesses examined by the workmen, J. G. Pinto, a clerk in the Job department stated that the job department makes rollers for Times of India newspaper. Similarly, Provakar S. Yadav another witness examined by the workmen, stated that the Process department does work for Times of India, Nav Bharat Times, Maratha Times, Economic Times, Evening News, Indrajai Comics, Madhuri and Dharmayuga.

311. On the evidence I am unable to hold that the Job and the Process departments are separate commercial departments serving the needs of outside parties only. The idea that I get is that they principally serve the needs of newspapers published by the Bennett Coleman and Company Limited and also utilise their surplus energy in serving outside parties.

312. The gross revenue of a newspaper, according to the definition includes the entire revenue earned by the establishment from one centre, the exception being that in a newspaper establishment in accordance with the activities of other departments which have nothing to do with the income and expenditure of the newspaper, including depreciation of the machinery employed by the newspaper establishments, net earning of these other departments is to be excluded from the income of the newspaper. Here as appears from the evidence, the income of Job department is consolidated with the other source of income including newspaper income of Bennett Coleman and Company Limited. The Job and the Process departments serve a good deal to the production of newspapers. The machinery employed in the Job and the Process departments may be suffering depreciation in serving the needs of the newspapers. They also publish several Journals either monthly or fortnightly. On the evidence, I do not find any justification in excluding the workmen of the Job and the Process departments from the benefits of the recommendations of the Wage Board. I hold that they are covered by the recommendations of the Wage Board and it is not necessary to prescribe any other fair wage for them.

Demand by the workmen for more than what was recommended by the Wage Board

313. I have exhausted the disputes which were referred to this Tribunal. Before I close this award, however, I should notice a short point. The workmen generally asked for more wages and more dearness allowance than what had been recommended by the Board. Their argument in support of such demands was that the wages recommended by the Board fell far short of living wages and that dearness allowance recommended did not neutralise the gap between the wages and the cost of living. I am not impressed with the arguments made by the workmen. I have already observed that the wages recommended by the Wage Board are burdensome for most of the newspaper establishments and beyond the capacity of some establishments. *I have in my award given some relief to the newspaper establishments themselves in respect of wages.* I cannot, by one hand, hold out some reliefs and, by the other hand, concede to the demand of the workmen for more wages and make the burdensome load more onerous. I do not therefore make much of this part of the demand made by the workmen.

314. I have already disposed of the demand by the clerical staff of the Statesman Limited for a separate wage scale while dealing with the case of the Statesman Limited separately hereinbefore.

Summary of the Award

315. I have disposed of the preliminary objections to the maintainability of the reference in paragraphs 163 to 185 hereof.

Regarding Item No. 1 of the Schedule in NIT-1 of 1968 and NIT-1 of 1969. I have held that the recommendations of the Wage Board for non-journalist employees, as accepted by the Government by its Resolution No. WB-17(7)/67, dated 18th November, 1967, are not wholly unfair or unreasonable but require some modifications indicated in the body of the award. The modifications are necessary so as to ensure a fair and just wage structure to non-journalist employees, having regard to the paying capacity of the respective newspaper establishments and the employers' agreement. The case of financially weak newspapers has been dealt with in paragraph 275 hereof.

I have also held that there are no comparable establishments with which the emoluments of the employees of the newspaper establishments can be compared.

Regarding Item 2 of the Schedule in NIT-1 of 1968 and Item No. 3 of NIT-1 of 1969, I have indicated the excluded categories and also indicated the wage structure for such categories, in so far as was possible for me on the evidence.

Regarding Item No. 3 of NIT-1 of 1968, I have held that the Free Press Journal, Bombay, (which should better be described as The Indian National Press Bombay Limited) is to be placed in Class III of the Classifications made by the Wage Board.

Regarding Item 2 of the Schedule in NIT-1 of 1969, I have held that the workmen of the Job and Process Departments of the establishments at Bombay and Delhi in Bennett Coleman and Company Limited are covered by the recommendations of the Wage Board and they should be governed by the same wage scales as recommended by the Wage Board for non-journalist workmen employed in the newspaper establishments, but modified by me.

This is my award.

Dated, July 15, 1970.

Sd./- B. N. BANERJEE,
Presiding Officer.

[No. F.WB-17(1)/69.]

HANS RAJ CHHABRA, Under Secy.